

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 86th General Assembly
3 Regular Session, 2007

A Bill

SENATE BILL 276

4
5 By: Senator T. Smith
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For An Act To Be Entitled

8
9 AN ACT AMENDING PROVISIONS OF ARKANSAS LAW
10 CONCERNING BODY ART; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 AN ACT AMENDING PROVISIONS OF ARKANSAS
14 LAW CONCERNING BODY ART.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 20-27-1501 is amended to read as follows:
20 20-27-1501. Definitions.

21 As used in this subchapter:

22 ~~(1)~~(2) "Apprentice Artist in training" means a person who:

23 (A) Is in training under the supervision of an artist
24 trainer or a physician; and

25 (B) ~~May~~ Shall not independently perform ~~body piercing,~~
26 ~~branding, or tattooing~~ body art;

27 ~~(2)~~(1) "Artist" means any person other than a licensed physician
28 who performs ~~body piercing, branding, or tattooing~~ body art on a human;

29 (3) "Artist trainer" means an artist who:

30 (A) Is licensed by the ~~Division of Health of the~~
31 Department of Health and Human Services;

32 (B) Has worked in a body art establishment licensed by the
33 ~~division~~ department for at least three (3) years and been in compliance with
34 ~~division~~ department rules governing body artists; ~~and~~

35 (C) Has completed the course required under § 20-27-1506;
36 and



1 (D) Is a registered instructor with the State Board of
 2 Private Career Education;

3 ~~(4) "Board" means the State Board of Health;~~

4 (4) "Body art" means procedures that include:

5 (A) Tattooing;

6 (B) Body piercing;

7 (C) Branding; or

8 (D) Permanent cosmetics.

9 ~~(5)(6)~~(A) "Body piercing" means the creation of an opening in
 10 the body of a human being for the purpose of inserting jewelry or other
 11 decoration.

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

15 ~~(6)(7)~~ "Branding" means a permanent mark made on human tissue by
 16 burning with a hot iron or other instrument;

17 ~~(7) "Division" means the Division of Health of the Department~~
 18 ~~of Health and Human Services; and~~

19 (8) "Establishment" means any place or facility:

20 (A) Where body art is performed; and

21 (B) That has a body artist licensed in Arkansas on staff;

22 (9) "Guest artist" means a body artist from a state other than
 23 Arkansas or a country other than the United States who holds a license from
 24 the body art regulatory board or agency in that state or country;

25 (10) "Permanent cosmetics" means the application of permanent or
 26 semi-permanent pigmentation by the penetration of the skin with a needle or
 27 instrument to:

28 (A) The face for cosmetic purposes; or

29 (B) Any part of the body for scar coverage or other
 30 corrective purposes; and

31 ~~(8)(11)~~(A) "Tattooing" means any method of placing designs,
 32 letters, scrolls, figures, symbols, or any other marks upon or under the skin
 33 by introducing pigments or by the production of scars to form indelible marks
 34 with the aid of needles or other instruments, ~~including permanent cosmetics.~~

35 (B) "Tattooing" does not include permanent
 36 cosmetics.

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SECTION 2. Arkansas Code § 20-27-1502 is amended to read as follows:

20-27-1502. Unlawful to ~~body pierce, brand, or tattoo~~ perform body art on a person under eighteen (18) years of age.

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

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

(2)(A) The parent or legal guardian is present during the procedure.

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

(b) Regardless of age, the person receiving the ~~body piercing, branding, or tattooing~~ body art shall attest to the fact that he or she is not under the influence of drugs or alcohol.

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

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

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

(e)(1) Except as provided in subsection (a) of this section, it is unlawful to ~~body pierce, brand, or tattoo~~ perform body art on a person under eighteen (18) years of age, and any person violating this prohibition shall be guilty of a Class C misdemeanor.

(2) Any person who falsely claims to be the minor's parent or legal guardian for the purpose of obtaining a ~~body piercing, branding, or~~

1 ~~tattooing~~ body art for a person under eighteen (18) years of age shall be
 2 guilty of a Class A misdemeanor.

3 (3) It is not a defense to a criminal prosecution under this
 4 section that at the time of the offense, the person who received the ~~body~~
 5 ~~piercing, branding, or tattooing~~ body art possessed a letter of consent from
 6 the person's parent or legal guardian if the letter was forged or if a person
 7 falsely assumed the identity of the minor's parent or legal guardian.

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9 SECTION 3. Arkansas Code § 20-27-1503 is amended to read as follows:

10 20-27-1503. ~~Division of Health of the~~ Department of Health and Human
 11 Services to license, regulate, and inspect for health hazards.

12 (a)(1) ~~Body piercing, branding, and tattooing studios and businesses~~
 13 Body art establishments which and artists who perform ~~body piercing,~~
 14 ~~branding, or tattooing~~ body art shall be licensed by the ~~Division of Health~~
 15 ~~of the~~ Department of Health and Human Services.

16 (2) The business premises, equipment, procedures, techniques,
 17 and conditions of those businesses shall be subject to periodic inspection by
 18 the ~~division~~ department.

19 (b)(1) The ~~division~~ department may adopt appropriate rules ~~and~~
 20 ~~regulations~~ regarding the artists, premises, equipment, procedures,
 21 techniques, and conditions of ~~studios and businesses~~ establishments which
 22 perform procedures subject to this subchapter to assure that the premises,
 23 equipment, procedures, techniques, and conditions are aseptic and do not
 24 constitute a health hazard.

25 (2) Any rule ~~or regulation~~ affecting ~~tattoo artists or studios~~
 26 body art establishments in effect on August 13, 2001, shall remain in effect
 27 until the State Board of Health adopts rules ~~and regulations~~ pursuant to this
 28 subchapter.

29 (c) Applicants for a license shall file applications upon forms
 30 prescribed by the ~~division~~ department.

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

33 (e)(1)(A) The ~~division~~ department shall levy and collect an annual fee
 34 of one hundred fifty dollars (\$150) per facility for issuance of a license to
 35 ~~a studio or business~~ an establishment that performs ~~body piercing, branding,~~
 36 ~~or tattooing~~ body art.

1 (B) The ~~division~~ department shall levy and collect an
 2 annual fee of one hundred dollars (\$100) per artist for issuance of a license
 3 to an artist who performs ~~body piercing, branding, or tattooing~~ body art.

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

7 (3) If the annual fee for a licensed ~~business~~ establishment has
 8 not been paid by March 1 of the calendar year, the ~~business~~ establishment
 9 shall be closed until a new license has been issued by the ~~division~~
 10 department and the annual fee has been paid.

11 (4)(A) If the annual fee for a licensed artist has not been paid
 12 by March 1 of the calendar year, the artist shall have his or her license
 13 revoked.

14 (B) If an artist has his or her license revoked, he or she
 15 shall be retested and complete a new ~~apprenticeship~~ residency as an artist in
 16 training under a licensed artist before a license may be reissued.

17 (5) In addition to the penalty provisions found in this
 18 subsection, any studio or business owner operating without a current license
 19 is subject to the penalties and fines allowed by § 20-7-101.

20 (f) All fees levied and collected under this subchapter are declared
 21 to be special revenues and shall be deposited into the State Treasury, there
 22 to be credited to the Public Health Fund to be used exclusively for the
 23 Tattoo and Piercing Program of the ~~division~~ department.

24 (g) Subject to any rules ~~and regulations~~ as may be implemented by the
 25 Chief Fiscal Officer of the State, the disbursing officer for the ~~division~~
 26 department may transfer all unexpended funds relative to the health facility
 27 services that pertain to fees collected, as certified by the Chief Fiscal
 28 Officer of the State, to be carried forward and made available for
 29 expenditures for the same purpose for any following fiscal year.

30
 31 SECTION 4. Arkansas Code § 20-27-1504 is amended to read as follows:
 32 20-27-1504. Local health officials.

33 (a) Any city or county department of health may periodically inspect
 34 ~~body piercing, branding, or tattooing studios and businesses which perform~~
 35 ~~body piercing, branding, or tattooing~~ body art establishments on the basis of
 36 compliance with state, city, or county sanitary regulations.

1 (b) The governing body of any municipality or county may adopt, by
2 ordinance, local sanitary regulations of ~~body piercing, branding, or~~
3 ~~tattooing studios and businesses which perform body piercing, branding, or~~
4 ~~tattooing~~ body art establishments.

5
6 SECTION 5. Arkansas Code § 20-27-1505 is amended to read as follows:
7 20-27-1505. No criminal liability.

8 Nothing in this subchapter creates any liability, criminal or
9 otherwise, for a person under eighteen (18) years of age for ~~having the body~~
10 ~~pierced, branded, or tattooed~~ undergoing body art.

11
12 SECTION 6. Arkansas Code § 20-27-1506 is amended to read as follows:
13 20-27-1506. Blood-borne pathogens course.

14 (a)(1) Each artist trainer and ~~apprentice~~ artist in training shall
15 complete a blood-borne pathogens course approved by the ~~Division of Health of~~
16 ~~the~~ Department of Health and Human Services.

17 (2) Each artist trainer shall complete the course before
18 training any ~~apprentice~~ artist in training.

19 (3) Each ~~apprentice~~ artist in training shall complete the course
20 before applying for the examination required under § 20-27-1508.

21 (b)(1)(A) The ~~division~~ department shall promulgate rules to establish
22 standards for the blood-borne pathogens course required under this section.

23 (B) The course shall require a minimum of two (2) hours of
24 direct instruction.

25 (2) The course may be taught by providers approved by the
26 ~~division~~ department, including, ~~but not limited to~~ without limitation:

- 27 (A) The American Red Cross;
- 28 (B) Any nationally recognized body art organization;
- 29 (C) Any institution of higher learning; and
- 30 (D) Any other individual or group approved by the ~~division~~
31 department.

32
33 SECTION 7. Arkansas Code § 20-27-1507 is amended to read as follows:
34 20-27-1507. ~~Supervision of apprentice body artists~~ Education of artist
35 in training.

36 (a) ~~No artist trainer may train more than two (2) apprentices at any~~

1 ~~one (1) time~~ An artist trainer shall be a registered instructor in a school
 2 licensed by the State Board of Private Career Education.

3 (b)(1)(A) During the ~~apprenticeship~~ artist training, each ~~apprentice~~
 4 artist in training shall complete ~~at least fifteen (15)~~ not less than three
 5 hundred seventy-five (375) clock hours of supervised body art work ~~each week~~
 6 and classroom instruction in a period not less than six (6) months or more
 7 than twenty-four (24) months in an establishment licensed under § 20-27-1503
 8 and § 6-51-601 et seq.

9 (B) Additional fields of body art training may be added by
 10 completing not less than two hundred fifty (250) clock hours of technical and
 11 procedural training in each of the other fields of body art in which an
 12 artist in training is to be licensed.

13 (2)(A) The artist trainer shall maintain a training log of the
 14 clock hours worked completed by the ~~apprentice~~ artist in training.

15 (B) ~~The log shall accompany the apprentice's application~~
 16 for the written examination The completed training log shall be submitted to
 17 the Department of Health and Human Services at the time of the practical
 18 examination under § 20-27-1508.

19
 20 SECTION 8. Arkansas Code § 20-27-1508 is amended to read as follows:
 21 20-27-1508. Examination - Fee.

22 (a)(1)(A) Each ~~apprentice~~ artist in training seeking licensure as an
 23 artist under the rules of the ~~Division of Health of the~~ Department of Health
 24 and Human Services shall take a written examination and a practical
 25 examination prepared or approved by the ~~division~~ department.

26 (B) Upon completion of the hours required under § 20-27-
 27 1507, a practical examination shall be conducted by the department in each
 28 field of training for which the artist in training is seeking licensure.

29 (2) Until an ~~apprentice~~ artist in training receives a passing
 30 grade on both the written examination and the practical examination, no
 31 ~~apprentice~~ artist in training may:

- 32 (A) Be licensed as an artist;
 33 (B) Hold himself or herself out as a licensed artist; or
 34 (C) Independently perform ~~body piercing, branding, or~~
 35 ~~tattooing~~ body art.

36 (b) The ~~division~~ department shall levy and collect a fee of fifty

1 dollars (\$50.00) from each ~~apprentice~~ artist in training who applies to take
 2 the written and practical examinations required under this section for
 3 licensure as an artist.

4
 5 SECTION 9. Arkansas Code § 20-27-1509 is amended to read as follows:
 6 20-27-1509. Temporary demonstration license.

7 (a) ~~The Division of Health of the~~ Department of Health and Human
 8 Services may issue a temporary demonstration license to an artist, ~~studio, or~~
 9 ~~business that performs body piercing, branding, or tattooing~~ or establishment
 10 or to a supplier of materials for ~~body piercing, branding, or tattooing~~ body
 11 art for:

- 12 (1) Educational purposes;
 13 (2) Trade shows; ~~and~~
 14 (3) Demonstrations of ~~body piercing, branding, or tattooing~~
 15 body art products or procedures; and
 16 (4) An appearance as a guest artist.

17 (b) A temporary demonstration license shall be valid for no more than
 18 fourteen (14) consecutive calendar days.

19 (c) ~~The division~~ department shall levy and collect a fee of one
 20 hundred fifty dollars (\$150) for each temporary demonstration license.

21 (d)(1) An application for a temporary demonstration license shall be
 22 submitted to the department not less than forty-five (45) days prior to the
 23 event or appearance as a guest artist.

24 (2) An artist shall provide evidence of completion of a blood-
 25 borne pathogens course with the application.

26 (e)(1) A person applying for a temporary demonstration license to
 27 appear as a guest artist shall provide documentation of licensure in another
 28 state or country before the temporary demonstration license may be granted.

29 (2) The establishment where the guest artist is appearing shall
 30 have a licensed body artist on its staff.

31 (3) A guest artist may be issued a temporary demonstration
 32 license to appear as a guest artist no more than one (1) time every six (6)
 33 months.