

**South Carolina General Assembly**  
115th Session, 2003-2004

**A BILL**

TO AMEND TITLE 44 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 34, TO PROVIDE FOR THE STANDARDS, REQUIREMENTS, AND PROCEDURES OF TATTOOING CERTAIN PERSONS UNDER CERTAIN CONDITIONS AND AT CERTAIN LOCATIONS; AND TO AMEND SECTION 16-17-700, TO PROVIDE THAT IT IS UNLAWFUL TO TATTOO ANOTHER PERSON UNLESS THE TATTOO ARTIST MEETS THE REQUIREMENTS OF CHAPTER 34 OF TITLE 44.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 44 of the 1976 Code is amended by adding:

"CHAPTER 34  
Tattooing

Section 44-34-10. As used in this chapter:

- (1) 'Department' means the Department of Health and Environmental Control.
- (2) 'Tattoo facility' means any room, space, location, area, structure, or business, or any part of any of these places, where tattooing is practiced or where the business of tattooing is conducted.
- (3) 'Tattoo artist' means a person who practices body tattooing and who meets the requirements of this chapter.
- (4) 'Tattoo or tattooing' means to indelibly mark or color the skin by subcutaneous introduction of nontoxic dyes or pigments.

Section 44-34-20. (A) The Department of Health and Environmental Control must establish by regulation sterilization, sanitation, and safety standards for persons engaged in the business of tattooing. The department must provide the necessary resources to support the development of these standards. The standards must be directed at establishment and maintenance of sterile conditions and safe disposal of instruments. The standards may be modified in accordance with the Administrative Procedures Act as appropriate to protect consumers from transmission of contagious diseases through cross-contamination of instruments and supplies.

(B) Prior to performing tattooing procedures, a tattoo facility must apply for and obtain a license issued by the department that shall be effective for a specified time period following the date of issue as determined by the department. To obtain a license, the tattoo facility must:

- (1) obtain a copy of the department's standards and commit on the application to meet those standards;
- (2) provide the department with its business address and the address at which the licensee would perform any activity regulated by this chapter;
- (3) provide to the department a certificate of each tattoo artist's initial certification of successful completion of courses in bloodborne pathogens and tattoo infection control as approved by the department and a current American Red Cross First Aid Certificate and an Adult Cardio-Pulmonary Resuscitation (CPR) Certification obtained from the American Red Cross or the American Heart Association;
- (4) remit to the department an initial and subsequently an annual license renewal fee of an amount set by the department;
- (5) provide to the department a certified copy of an ordinance passed by the local governing body where the business will be located which authorizes the tattooing of persons within its jurisdiction;
- (6) be in substantial compliance with department standards as determined by an initial license inspection conducted by the department.

(C) A tattoo facility may only provide tattooing and may not engage in any other retail business including, but not limited to, the sale of goods or performing any form of body piercing other than tattooing.

Section 44-34-30. (A) A tattoo artist must comply with the following infection control measures or standards at all times:

- (1) wash his hands thoroughly with water and a germicide soap approved by the department before and after each client's procedure;
- (2) when necessary to perform a procedure on certain individuals who must undergo shaving of hair, use only a single-use disposable razor and clean the skin with a liquid

germicidal solution approved by the department and used in accordance with the manufacturer's directions;

(3) use single-use sterile disposable gloves when setting up equipment and single-use sterile disposable gloves when performing procedures on a client; these gloves must never be washed or reused in any manner and must be immediately replaced upon notice of a tear, any contamination, or other defect;

(4) when conducting a procedure, use single-use disposable needles and injection equipment which are designated and sterilely packaged as single-use only, and these needles and injection equipment must never be cleaned or reused in any manner on another client;

(5) properly sterilize by autoclave all reusable instruments and other tattooing items other than inks and sterilely packaged and labeled with the date of sterilization and a sterile indicator;

(6) prior to any direct contact with the client, place in a sterile manner all sterile instruments on a sterile disposable towel or drape to be used as a single sterile field throughout the procedure. Regloving with single-use sterile disposable surgical gloves must occur prior to initiation of the procedure, which is to be performed using strict sterile surgical techniques. Any nonsterile contact or contamination of the instruments or field must immediately result in cessation of the procedure and nonuse of all equipment until resterilized;

(7) scrub the skin of the client in a sterile surgical manner with a liquid germicidal solution approved by the department and used in accordance with the manufacturer's direction; and

(8) dispose of single-use needles and other disposable sharp supplies in safety puncture-proof containers as approved by the department; these used containers must be disposed of in a manner prescribed by the department.

(B) The use of gauze, alum, styptic pencils, or medical supplies considered necessary to control bleeding is prohibited unless a separate disposable single-use sterile item is used on each client.

(C) The tattoo artist must not use stencils to transfer designs to skin or containers of ink or dye unless separate, disposable single-use stencils or containers are used on each recipient.

(D) Each tattoo facility must keep a current written log for the previous two years of autoclave use including, but not limited to, the date and time of use and results of sterilization spore test strip tests performed at least monthly.

(E) A tattoo facility must include a room for the purpose of disinfecting and sterilization of equipment, and this room must be physically separate from the room used for tattooing procedures to avoid cross contamination of equipment. Flooring in each room must be composed of material which is sanitizable.

Section 44-34-40. (A) The department may charge an additional amount if necessary to cover the cost of inspection.

(B) Fees and monetary penalties established by this chapter must be used exclusively in support of activities pursuant to this chapter.

Section 44-34-50. (A) A tattoo artist must be at least twenty-one years old and must possess a certificate of successful completion, on an annual basis, of a course in blood borne pathology and tattoo infection control as approved by the department, a current American Red Cross First Aid Certification and Adult Cardiopulmonary Resuscitation (CPR) Certification obtained either from the American Red Cross or the American Heart Association. A tattoo artist must conspicuously display in a public area on the premises of the tattoo facility the certificates of successful completion of a course in CPR, first aid, blood borne pathogens, and tattoo infection control.

(B) A tattoo artist must comply with all applicable federal Office of Safety and Health Administration requirements or guidelines.

(C) The tattoo artist must allow and cooperate with on-site inspections and investigations as considered necessary by the department and must address by corrective action the noncompliance items as identified by the department.

Section 44-34-60. (A) The department may conduct unannounced inspections or complaint investigations of the locations at which tattooing, as applicable to this chapter, is being performed.

(B) Each tattoo facility location must conspicuously display in a public area on the premises of the licensed tattoo facility:

(1) a clearly legible notice to patrons informing them of any disqualification which tattooing may confer upon a prospective blood donor according to the current and subsequent amendments to standards of the American Association of Blood Banks.

This notice also must appear in any informed consent or release form utilized by a tattoo artist. This informed consent or release form must be signed by the prospective client and must contain, at a minimum, aftercare suggestions for the specific tattoo site;

(2) the tattoo facility license issued by the department.

(C) A tattoo artist must verify by means of a picture identification that a recipient is at least twenty-one years of age or, if the person is at least eighteen years of age, has parental consent. For purposes of this section, 'picture identification' means:

(1) a valid driver's license; or

(2) an official photographic identification card issued by the South Carolina

Department of Revenue, a federal or state law enforcement agency, an agency of the United States Department of Defense, or the United States Department of State. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age is a defense to an action brought pursuant to this section.

(D) A person who has his or her body tattooed while under the age of eighteen in violation of subsection (C) above may bring an action in the circuit court against the person convicted of the violation to recover actual damages and punitive damages plus costs of the action and attorney's fees.

Section 44-34-70. (A) The department must promulgate regulations as required by Section 44-34-20 and such other regulations as may be necessary but which do not conflict with the provisions of this chapter.

(B) This chapter does not limit the department's ability to require a potential licensee to obtain any business license or permit that the department finds appropriate.

Section 44-34-80. The department may revoke, suspend, or refuse to issue or renew a license pursuant to this chapter and invoke a monetary penalty upon evidence as determined by the department that the licensee of the facility under this chapter has:

- (1) failed to maintain a business address or telephone number at which the tattoo facility may be reached during business hours;
- (2) failed to maintain proper safety, sanitation, or sterilization procedures as established by law or by department regulations;
- (3) obtained a tattoo facility license through fraud or deceit; or
- (4) violated any applicable law or regulation.

Section 44-34-90. This chapter does not restrict the activities of a physician or surgeon licensed pursuant to the laws of this State.

Section 44-34-100. (A) It is unlawful for a person to perform or offer to perform tattooing upon a person under the age of twenty-one years or, if the person is at least eighteen, does not have parental consent.

(B) The minor upon whom tattooing is performed, or the parent or legal guardian of that minor, or any other minor is not liable for punishment pursuant to this section.

(C) Tattooing may not be performed upon a person impaired by drugs or alcohol. A person impaired by drugs or alcohol is considered incapable of consenting to tattooing and incapable of understanding tattooing procedures and aftercare suggestions.

(D) Tattooing may not be performed on skin surfaces having a rash, pimples, boils, keloids, sunburn, open lesions, infections, or manifest any evidence of unhealthy conditions.

(E) It is unlawful for a tattoo artist to tattoo any part of the head, face, or neck of another person.

(F) A person who violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined up to two thousand five hundred dollars or imprisoned up to one year, or both.

(G) All licensing fees and monetary penalties collected must be remitted to the Department of Health and Environmental Control in a separate and distinct account to be used solely to carry out and enforce the provisions of this chapter.

Section 44-34-110. (A)(1) The department must not grant or issue a license to a tattoo facility, if the place of business is within one thousand feet of a church, school, or playground. This distance must be computed by following the shortest route of ordinary

pedestrian or vehicular travel along the public thoroughfare from the nearest point of the grounds in use as part of the church, school, or playground.

(2) As used in this subsection:

(a) 'Church' means an establishment, other than a private dwelling, where religious services are usually conducted.

(b) 'School' means an establishment, other than a private dwelling where the usual processes of education are usually conducted.

(c) 'Playground' means a place, other than grounds at a private dwelling, that is provided by the public or members of a community for recreation.

(3) The restrictions in subsection (A)(1) do not apply to the renewal of licenses or to new applications for locations that are licensed at the time the new application is filed with the department.

(B) An applicant for license renewal or for a new license at an existing tattoo facility location shall pay a certification fee established by the department in regulation to determine if the exemptions provided for in subsection (A)(3) apply.

(C) A person who intends to apply for a license under this article must advertise at least once a week for three consecutive weeks in a newspaper circulated nearest to the proposed location of the business and most likely to give notice to interested citizens of the county, city, and community in which the applicant proposes to engage in business. The department shall determine which newspapers meet the requirements of this section based on available circulation figures and the proposed location of the business. However, if a newspaper is published in the county and historically has been the newspaper where the advertisements are published, the advertisements published in that newspaper meet the requirements of this subsection. The notice must be in the legal notice section of the paper, or in an equivalent section if the newspaper has no legal notice section, and must be in large type, cover a space one column wide and not less than two inches deep, and state the type of license applied for and the exact location at which the proposed business is to be operated."

SECTION 2. Section 16-17-700 of the 1976 Code is amended to read:

"Section 16-17-700. It is unlawful for a person to tattoo any part of the body of another person unless the tattoo artist meets the requirements of Chapter 34 of Title 44.

However, it is not unlawful for a licensed physician or surgeon to tattoo part of the body of a person of any age if in the physician's or surgeon's medical opinion it is necessary or appropriate; and it is not unlawful for a physician to delegate tattooing procedures to an employee in accordance with Section 40-47-60, subject to the regulations of the State Board of Medical Examiners.

A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined up to two thousand five hundred dollars or imprisoned not more than one year, or both."

SECTION 3. This act takes effect upon approval by the Governor.

Signed by the Governor, June 17, 2004

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