

# HOUSE BILL No. 4949

July 2, 2003, Introduced by Reps. Gleason, Lipsey, Bieda, Voorhees, DeRoche, Steil, Meisner, Clack, Plakas, Wojno, Elkins, Law, Cheeks, Murphy, McConico and Vagnozzi and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending 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, and 13110.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 13101. As used in this part:

2       **(a) "Alcoholic liquor" means that term as defined in**  
3 **section 105 of the Michigan liquor control code of 1998, 1998**  
4 **PA 58, MCL 436.1105.**

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

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

9       **(d) "Communicable disease" means that term as defined in**

1 **section 5101.**

2 (e) ~~-(e)-~~ "Controlled substance" means that term as defined  
3 in section 7104.

4 (f) **"Department" means the department of consumer and**  
5 **industry services.**

6 (g) ~~-(d)-~~ "Minor" means an individual under 18 years of age  
7 who is not emancipated under section 4 of ~~Act No. 293 of the~~  
8 ~~Public Acts of 1968, being section 722.4 of the Michigan Compiled~~  
9 ~~Laws~~ **1968 PA 293, MCL 722.4.**

10 (h) **"Smoking" means that term as defined in section 12601.**

11 (i) ~~-(e)-~~ "Tattoo" means 1 or more of the following:

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

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

16 (j) **"Tattoo facility" means the geographic location at which**  
17 **an individual does 1 or more of the following for compensation:**

18 (i) **Performs tattooing.**

19 (ii) **Performs branding.**

20 (iii) **Performs body-piercing.**

21 Sec. 13102. (1) ~~An~~ **Subject to section 13104, an**  
22 individual shall not tattoo, brand, or perform body-piercing on a  
23 minor unless the individual obtains the prior written informed  
24 consent of the minor's parent or legal guardian. The minor's  
25 parent or legal guardian shall execute the written, informed  
26 consent required under this subsection in the presence of the  
27 individual performing the tattooing, branding, or body-piercing

1 on the minor or in the presence of an employee or agent of that  
2 individual. ~~For purposes of this section, "minor" does not~~  
3 ~~include a minor who is emancipated pursuant to section 4 of Act~~  
4 ~~No. 293 of the Public Acts of 1968, being section 722.4 of the~~  
5 ~~Michigan Compiled Laws.~~

6 (2) An individual shall not tattoo, brand, or perform  
7 body-piercing on another individual if the other individual is  
8 under the influence of ~~intoxicating~~ **alcoholic** liquor or a  
9 controlled substance.

10 **Sec. 13104. (1) After the effective date of the rules**  
11 **promulgated under section 13108, an individual shall not tattoo,**  
12 **brand, or perform body-piercing on another individual unless the**  
13 **tattooing, branding, or body-piercing occurs at a tattoo facility**  
14 **licensed under this part.**

15 (2) The owner or operator of a tattoo facility may apply to  
16 the department for a tattoo facility license under this part on a  
17 form provided by the department, and at the time of application  
18 shall pay to the department the appropriate fee prescribed under  
19 subsection (3). If the department determines that the  
20 application is complete and the tattoo facility proposed or  
21 operated by the applicant meets the requirements of this part and  
22 the rules promulgated under this part, the department shall issue  
23 a license to the applicant for the operation of that tattoo  
24 facility. The license is effective for 1 year or for a time  
25 period prescribed by rule of the department.

26 (3) Subject to section 13108, the owner or operator of a  
27 tattoo facility shall pay 1 of the following fees at the time of

1 application for a tattoo facility license:

2 (a) For an initial annual license.....\$250.00.

3 (b) For a 1-year, or other period of time prescribed  
4 by rule promulgated by the department under section  
5 13108, renewal of an annual license.....\$200.00.

6 (c) For a temporary license to operate a tattoo  
7 facility at a fixed location for not more than a 2-week  
8 period.....\$ 50.00.

9 Sec. 13105. (1) Before issuing a license to an applicant  
10 under this part, the department shall inspect the premises of the  
11 tattoo facility that is the subject of the application.

12 (2) The department shall periodically inspect each tattoo  
13 facility licensed under this part to ensure compliance with this  
14 part. The department may authorize a local health department  
15 under section 2235 to perform the inspections required under this  
16 subsection.

17 (3) The department shall issue a license under this part to a  
18 specific person for a tattoo facility at a specific location. A  
19 license issued under this part is nontransferable.

20 Sec. 13106. The owner or operator of a tattoo facility  
21 licensed under this part shall apply to the department for  
22 renewal of the license not less than 30 days before the license  
23 expires. upon payment of the renewal fee prescribed by section  
24 13104(3), The department shall renew the license if the applicant  
25 is in compliance with this part and rules promulgated under this  
26 part.

27 Sec. 13107. A person who owns or operates a tattoo facility

1 licensed under this part shall do each of the following:

2 (a) Display the license issued under this part in a  
3 conspicuous place within the customer service area of the tattoo  
4 facility.

5 (b) Ensure that the tattoo facility is in compliance with  
6 part 138 and with rules promulgated under that part.

7 (c) Ensure that an individual engaged in tattooing in the  
8 tattoo facility wears disposable gloves approved by the  
9 department when tattooing or cleaning tattooing instruments and  
10 when performing branding or body-piercing or cleaning branding or  
11 body-piercing instruments.

12 (d) Maintain a permanent record of each individual who has  
13 been tattooed or branded or who has had body-piercing performed  
14 at the tattoo facility, and make the records available for  
15 inspection by the department or a local health department. The  
16 record shall include, at a minimum, the individual's name,  
17 address, age, and signature, the date, the design and location of  
18 the tattooing, branding, or body-piercing, and the name of the  
19 individual performing the tattooing, branding, or body-piercing.

20 (e) Prohibit smoking within the tattoo facility.

21 (f) Comply with section 13102(2).

22 (g) Provide each customer with a written information sheet  
23 distributed or approved by the department that provides  
24 instructions on the care of a tattoo site, brand site, or  
25 body-piercing site, and that includes a recommendation that an  
26 individual seek medical attention if the tattoo site, brand site,  
27 or body-piercing site becomes infected or painful, or if the

1 person develops a fever soon after being tattooed, branded, or  
2 having body-piercing performed.

3 (h) Within 24 hours of becoming aware that an individual  
4 tattooed, branded, or body-pierced at the tattoo facility is  
5 infected with a communicable disease, notify the department.

6 Sec. 13108. (1) The department shall do each of the  
7 following:

8 (a) Enforce this part and the rules promulgated under this  
9 part.

10 (b) Promulgate rules necessary to implement this part,  
11 including, but not limited to, rules governing each of the  
12 following:

13 (i) Tattoo facility design and construction.

14 (ii) Tattoo, branding, and body-piercing equipment standards,  
15 including, but not limited to, cleaning and sterilization  
16 requirements.

17 (iii) Tattoo dye standards.

18 (iv) Inspection of tattoo facilities.

19 (v) Tattoo facility license renewal.

20 (c) Develop and distribute the information sheet described in  
21 section 13107(g), or approve information sheets developed by  
22 another entity.

23 (2) The department may do each of the following:

24 (a) Appoint an advisory committee to assist the department in  
25 rule development under this part.

26 (b) After notice and an opportunity for a hearing, suspend,  
27 revoke, or deny a license or license renewal under this part for

1 a violation of this part or a rule promulgated under this part.

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

6 Sec. 13109. Except as otherwise provided in sections 13103  
7 and 13110, a person who violates this part or a rule promulgated  
8 under this part is guilty of a misdemeanor, punishable by  
9 imprisonment for not more than 90 days, or a fine of not more  
10 than \$100.00, or both, for each violation.

11 Sec. 13110. A person shall not give or sell to a minor a  
12 body-piercing kit or other body-piercing device. A person who  
13 violates this section is responsible for a state civil  
14 infraction, and is subject to a civil fine of not more than  
15 \$500.00. This section shall be enforced pursuant to chapter 88  
16 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801  
17 to 600.8835.