

AN ACT

D.C. ACT 19-448

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 17, 2012

*Codification
District of
Columbia
Official Code*

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To amend the Department of Health Functions Clarification Act of 2001 and Chapter 28 of Title 47 of the District of Columbia Official Code to regulate body artists and body art establishments in the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Regulation of Body Artists and Body Art Establishments Act of 2012".

Sec. 2. Section 4902(a)(10) of the Department of Health Functions Clarification Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code §7-731(a)(10)), is amended by striking the phrase "and beauty salons;" and inserting the phrase ", beauty salons, and body art establishments;" in its place.

Amend
§ 7-731

Sec. 3. Chapter 28 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended as follows:

(1) New section designation 47-2809.01 is added to read as follows:

"47-2809.01. Body art establishments."

(2) New designation Part D-i is added to Subchapter I-B to read as follows;

"Part D-i. Body Artists."

(b) A new section 47-2809.01 is added to read as follows:

"§ 47-2809.01. Body art establishments.

New
§ 47-2809.01

"(a) For the purposes of this section and Part D-i of Subchapter I-B of this chapter, the term:

"(1) "Board" means the Board of Barber and Cosmetology.

"(2) "Body art" or "body art procedure" means the process of physically modifying the body for cosmetic or other non-medical purposes, including tattooing, body piercing, and fixing indelible marks or figures on the skin through scarification, branding, tongue bifurcation, and tissue removal.

"(3) "Body artist" means an individual who is licensed under this chapter to perform body art procedures.

ENROLLED ORIGINAL

“(4) “Body art establishment” means any structure or venue, whether temporary or permanent, where body art procedures are performed.

“(5) “Body piercing” means the perforation of any human body part followed by the insertion of an object, such as jewelry, for cosmetic or other nonmedical purposes by using any of the following instruments, methods, or processes: stud and clasp, captive ball, soft tissue, cartilage, surface, surface-to-surface, microdermal implantation or dermal anchoring, subdermal implantation, and transdermal implantation. The term “body piercing” shall not include nail piercing.

“(6) “Branding” means the process of applying extreme heat with a pen-like instrument to create an image or pattern.

“(7) “Cleansing product” means any material used to apply cleansing agents to the skin, such as cotton balls, tissue or paper products, paper or plastic cups, towels, gauze, or sanitary coverings.

“(8) “Operator” means any person who owns, controls, or operates a body art establishment, whether or not the person actually performs body art procedures.

“(9) “Sanitization” means the reduction of the population of microorganisms to safe levels, as determined by the Department of Health, by a product registered with the Environmental Protection Agency (“EPA”) or by chemical germicides that are registered with the EPA as hospital disinfectants.

“(10) “Scarification” means the placing of an indelible mark on the skin by the process of cutting or abrading the skin to bring about permanent scarring.

“(11) “Sharps” means any object, sterile or contaminated, that may penetrate the skin or mucosa, including presterilized single needles, scalpel blades, and razor blades.

“(12) “Single-use” means products or items intended for one-time use that are disposed of after use on a client.

“(13) “Sterilization” means the process of destruction of all forms of life by physical or chemical means.

“(14) “Tattoo” means the placing of pigment into the skin dermis for cosmetic or other nonmedical purposes, including the process of micropigmentation or cosmetic tattooing.

“(15) “Tissue removal” means placing an indelible mark or figure on the skin through removal of a portion of the dermis.

“(16) “Tongue bifurcation” means the cutting of the tongue from tip to part of the way toward the base, forking at the end.

“(b)(1) The Department of Health shall regulate body art establishments to ensure that such establishments have adequate health, sanitization, sterilization and safety methods, procedures, equipment, and supplies by:

“(A) Establishing minimum sterilization, sanitation, health, and safety standards for the operation of such establishments as may be necessary to prevent infection and contamination of equipment, supplies, or work surfaces with pathogenic organisms; and

“(B) Establishing and imposing operational licensing, registration

requirements, and associated fee schedules.

“(2) Within 180 days of the effective date of this section, the Department of Health shall issue rules to implement the provisions of paragraph (1) of this subsection.

“(c)(1) All body art establishments offering tattooing procedures shall conspicuously post a written disclosure that states the following:

“The United States Food and Drug Administration has not approved any pigment color additive for injectable use as tattoo ink. There may be a risk of carcinogenic decomposition associated with certain pigments when the pigments are subsequently exposed to concentrated ultra-violet light or laser irradiation.”

“(2) All body art establishments offering tattooing procedures shall maintain documentation on the premises containing the following information and shall disclose such information to customers upon request:

“(A) The components of the pigments used in the body art establishment;

“(B) The names, addresses, and telephone numbers of the suppliers and manufacturers of pigments used in the body art establishment for the past 3 years; and

“(C) Identification of any recalled pigments used in the establishment for the past 3 years and the supplier and manufacturer of each pigment.

“(3) All body art establishments shall maintain and use regularly calibrated autoclave equipment for the sterilization of any non-disposable body art equipment, at a frequency to be established by the Department of Health.

“(4) Only single-use disposable sharps, pigments, gloves, and cleansing products shall be used in connection with body art procedures in body art establishments, in accordance with rules established by the Department of Health pursuant to subsection (b) of this section.

“(5) A body art establishment that is in violation of this subsection shall be subject to license suspension or revocation and a maximum fine of \$2,500.

“(d)(1) No person shall operate a body art establishment or perform body art procedures in a body art establishment unless that establishment has obtained a valid body art establishment license issued by the Mayor.

“(2) No body art establishment shall employ or permit body artists to perform body art procedures in the body art establishment unless the body artist holds a valid body art license issued by the Mayor.

“(3) Any person violating paragraph (1) or (2) of this subsection shall, upon conviction, be deemed guilty of a misdemeanor and may be punished by a fine not exceeding \$2,500, imprisonment for not more than 3 months, or both.”

(c) Section 47-2853.04(a) is amended by adding a new paragraph (4A) to read as follows:

“(4A) Body Artist.”

(d) Section 47-2853.06(c) is amended as follows:

(1) Strike the phrase “11 members” and insert the phrase “14 members” in its place.

Amend
§ 47-2853.04

Amend
§ 47-2853.06

ENROLLED ORIGINAL

(2) Strike the phrase "practice of barbers and cosmetologists," and insert the phrase "practice of barbers, body artists, and cosmetologists," in its place.

(e) Section 47-2853.12(a)(1) is amended by adding a new subparagraph (B-i) to read as follows:

Amend
§ 47-2853.12

"(B-i) Body artist;".

(f) Section 47-2853.17(a)(5) is amended by adding a new subparagraph (B-i) to read as follows:

Amend
§ 47-2853.17

"(B-i) Body artist;".

(g) Subchapter I-B is amended by adding a new Part D-i to read as follows:

"Part D-i. Body Artists.

§ 47-2853.76a. Scope of practice for body artists.

New
§ 47-2853.76a

"For the purposes of this part, the practice of body art does not include:

"(1) A licensed physician or surgeon performing body art services for medical reasons;

"(2) A licensed funeral director performing body-piercing or tattooing services as required by that profession;

"(3) Laser tattoo removal procedures; or

"(4) Skin treatment procedures such as chemical peels or microdermabrasion.

§ 47-2853.76b. Regulation of body artists.

New
§ 47-2853.76b

"(a) The Department of Consumer and Regulatory Affairs, through the Board of Barber and Cosmetology, shall regulate body artists to protect public health, safety, and welfare, and to ensure that persons engaged in the occupation have the specialized skills, education, and training required to perform the services offered by:

"(1) Establishing and imposing occupational licensing, registration requirements, and associated fee schedules; and

"(2) Establishing rules within 180 days of the effective date of this part.

§ 47-2853.76c. Eligibility requirements.

New
§ 47-2853.76c

"(a) An applicant for licensure as a body artist shall establish to the satisfaction of the Board that he or she:

"(1) Has received a certificate of completion of a course in blood borne pathogens, **cardiopulmonary resuscitation**, and first aid, conferred by an institution or organization that is recognized by the Board or that the Board determines to be substantially equivalent thereof;

"(2) Has worked as an apprentice body artist, under the training of a body artist who has been licensed in the District of Columbia, for at least 500 hours;

"(3) Has passed the examinations required by the Board;

"(4) Has not had his or her license to practice body art procedures suspended or revoked in any other jurisdiction; and

"(5) Meets any other requirements established by rule to ensure that the applicant has had the proper training and experience to perform body art procedures.

"(b) Any person who can demonstrate to the satisfaction of the Board that he or she has

ENROLLED ORIGINAL

worked as a body artist in the District or elsewhere for at least 4,000 hours over a period of 2 years immediately preceding the date of application, or has equivalent experience that is acceptable to the Board, is exempt from the requirement in subsection (a)(2) of this section.

“§ 47-2853.76d. Duties and responsibilities of body artists.

New
§ 47-2853.76d

“(a) Body art technicians shall perform body art procedures in a licensed body art establishment.

“(b) Body art technicians shall use single-use disposable sharps, pigments, gloves, and cleansing products while performing body art procedures on each client.

“(c) Verbal and written instructions for the care of the tattooed, pierced, or other modified sites on the body shall be provided by the body artist to each customer upon the completion of the procedure. The written instructions shall advise the customer to consult a physician at the first sign of infection or other adverse reaction and shall contain the name of the body artist and the name, address, and telephone number of the establishment.

“(d) Any person who violates this section shall be subject to disciplinary action including license suspension or revocation and a maximum fine of \$2,500.

“§ 47-2853.76e. Prohibitions and penalties.

New
§ 47-2853.76e

“(a) No person shall perform or offer to perform body art procedures, hold him or herself out as a practitioner of or entitled or authorized to practice body art procedures, assume any title of “body artist” “tattooist,” “tattoo artist,” “body-piercer,” “body-piercing artist,” or “body modification artist,” and the like, use any words or letters, figures, titles, signs, cards, advertisement, or any other symbols or devices indicating or tending to indicate that the person is authorized to perform such services, or use other letters or titles in connection with that person’s name which in any way represents himself or herself as being engaged in the practice of body art, or authorized to do so, unless the person is licensed by and registered with the Mayor to perform body art procedures in the District of Columbia.

“(b) No body artist shall perform body art procedures on a person under 18 years of age, except ear piercing using a mechanized, pre-sterilized single-use stud and clasp ear piercing gun. Such ear piercing shall not occur unless a parent or legal guardian has provided his or her written consent.

“(c) No person shall perform body art procedures if the person is unable to exercise reasonable care and safety or is otherwise impaired by reason of illness, while under the influence of alcohol, or while using any controlled substance or narcotic drug as defined in 21 U.S.C. § 802(6) or (17), respectively, or other drug in excess of therapeutic amounts or without valid medical indication, or any combination thereof.

“(d) No body artist shall administer anesthetic injections or other medications and prescription drugs to customers receiving body art procedures.


“(e) Any person who violates subsection (a) of this section shall, upon conviction, be deemed guilty of a misdemeanor and may be punished by a fine not exceeding \$2,500, imprisonment for not more than 3 months, or both.”.

Sec. 4. Fiscal impact statement.

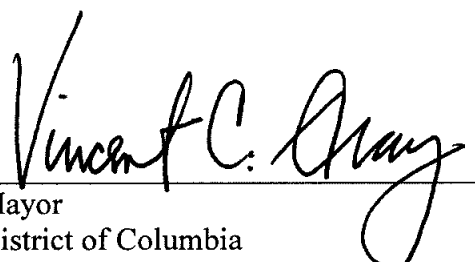
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
August 17, 2012