

*** Current through the 2014 Regular Session ***

Title 62 Professions, Businesses and Trades
Chapter 38 Tattoos and Body Piercing
Part 2 General Provisions

Tenn. Code Ann. § 62-38-201 (2014)

62-38-201. Part definitions.

As used in this part, unless the context otherwise requires:

- (1) "Antibacterial solution" means any solution used to retard the growth of bacteria approved for application to human skin and includes all products so labeled;
- (2) "Client" means any person desiring to receive a tattoo;
- (3) "Commissioner" means the commissioner of health;
- (4) "Department" means the department of health;
- (5) "Disinfectant" means a solution intended to destroy or inactivate specific viruses, bacteria or fungi on inanimate surfaces;
- (6) "Germicidal solution" means any solution that destroys germs and is so labeled;
- (7) "License" means the issuance of a license to perform tattooing to any individual, partnership, firm or corporation;
- (8) "Permit" means the issuance of a permit to a tattoo studio or establishment;
- (9) "Registration" means license or permit, as applicable;
- (10) "Sanitary" means clean and free of agents of infection;
- (11) "Single use" means an item is used one (1) time on one (1) client and then is properly disposed of by appropriate measures;
- (12) "Sterilization" means holding in an autoclave for fifteen (15) minutes, at fifteen pounds (15 lbs.) pressure and at a temperature of two hundred fifty degrees fahrenheit (250 degreesF) or one hundred twenty-one degrees celsius (121 degreesC);

(13) "Tattoo" means any method of placing designs, letters, figures, symbols, cosmetics or any other marks under the skin of a person with ink or color by the aid of needles or instruments;

(14) "Tattoo artist" means any person, regardless of age, who engages in the practice/service of tattooing regardless of the type of tattoo or area to be tattooed;

(15) "Tattoo artist registration" means the issuance of a state license authorizing the person named therein to engage in the practice/service of tattooing in this state after fulfilling the requirements in this part;

(16) "Tattoo operator" means any person who controls, operates, conducts or manages any tattoo studio, whether actually engaging in tattooing or not;

(17) "Tattoo studio" means any room or space where tattooing is practiced or where the service of tattooing is conducted;

(18) "Tattoo studio certificate" means the issuance of a written permit, issued by the local county health department, to a tattoo studio stating that the studio, after inspection, was found to be in compliance with this part; and

(19) "Universal precautions" means that all blood and body fluids are treated as to contain all bloodborne pathogens and taking proper precautions to prevent the spread of any bloodborne pathogens.

62-38-202. Registration, certification, and inspections for studios -- Permit fee schedule -- Violations and penalties.

(a) No person shall operate a tattoo studio unless the person is registered with the state as an operator or as an artist and the studio has been issued a studio certificate by the local health department. No studio certificate shall be issued or renewed unless the studio has been inspected and found to be in compliance by the local health department.

(b) A studio certificate shall expire on December 31 of each year.

(c) The local health department shall inspect each tattoo studio a minimum of four (4) times each year to ensure compliance with this part.

(d) Tattoo studio violations shall be classified into two (2) categories: critical and minor. Tattoo studios found to have critical violations shall be subject to a one hundred dollar (\$100) civil penalty and, if deemed necessary, the immediate shutdown of the tattoo studio. Reinspection for a critical violation shall be within seven (7) days, at which time the tattoo studio may be reopened if the studio is found to be in compliance. If a second critical violation is committed within the period of one (1) year, calendar or otherwise, the tattoo studio shall be subject to a civil penalty of up to five hundred dollars (\$500) and the tattoo

studio's certificate may be revoked.

(e) Minor violations means all other violations of this part. Tattoo studios with minor violations shall be subject to a twenty-five dollar (\$25.00) civil penalty and shall have fourteen (14) days to address and correct the violations. Reinspection for a minor violation shall be at the discretion of the local health department.

(f) A violation may be reviewed by the local health department upon written request of the person or studio committing the violation. A request for review by the local health department shall be made in writing within ten (10) days of receipt of notification of the violation. The local health department should respond to this review within fourteen (14) days.

(g) Critical violations shall include the following:

- (1)** Autoclave is not in good working order;
- (2)** Tubes and needles are not sterilized in an approved manner;
- (3)** Work room is not equipped as required or is not stocked;
- (4)** Prohibited reuse of single use articles;
- (5)** Sterile instruments are not handled properly;
- (6)** Reusable instruments are not handled properly;
- (7)** Employees with infectious lesions on hands not restricted from tattooing;
- (8)** Employees not practicing proper cleanliness and good hygiene practices;
- (9)** Water supply not approved, hot and cold running water under pressure not available;
- (10)** Approved sewage and liquid waste disposal not available;
- (11)** Cross connection allowing back-siphonage present in plumbing system;
- (12)** Toilet and hand washing facilities not available for employees;
- (13)** Insect and rodent evidence, harborage or outer opening present; or
- (14)** Toxic items not properly stored, labeled or used.

(h) In all instances of violations, the local health department shall give written notice to the tattoo operator specifying the violations and measures that are necessary to correct the violations. A copy of this notice/inspection sheet shall be signed by the studio and retained

by the local health department. Payment of all registrations, fees or fines shall be payable to the local health department having jurisdiction for administrative costs.

(i) A tattoo studio shall pay a permit fee of \$280.

(j) If the permit fee is delinquent for more than thirty (30) calendar days, a penalty of one half (1/2) the permit fee shall be added to the fee. If a check is returned for any reason, a penalty of one half (1/2) the permit fee shall be added to the fee. The permit fee plus any penalty must be paid before the permit is issued.

(k) A percentage of permit fees, fines and penalties collected within a contract county pursuant to § 62-38-202 shall be conveyed by contract to the respective county health department to assist the county health department in implementing the program in the local jurisdiction. This amount shall be calculated based upon fees collected in the contract county during the state's fiscal year multiplied by ninety-five percent (95%).

62-38-203. Inspections -- Work areas -- Premises and equipment.

(a) Before a permit to operate a tattoo establishment is granted, the local health department or its duly authorized agent shall inspect the premises in which the business is to be conducted. If the condition of the premises or its equipment does not conform to the requirements of this part, the local health department shall refuse to issue a permit. If the tattoo establishment conforms to the requirements of this part, the local health department or its duly authorized agent shall issue the permit requested.

(b) Each studio where tattoos are administered shall provide a work area separate from any observers present. No smoking or eating shall take place in the tattoo work area. Clients shall be tattooed only while in the tattoo work area.

(c) Adequate restroom facilities for clients and operators shall be provided within each studio.

(d) A sink with hot and cold running water for handwashing and sterilization, other than a bathroom sink, shall be provided. Sinks shall be equipped with an antibacterial solution and single use towels.

(e) All waste products shall be disposed of in accordance with universal precaution guidelines. All needles or other sharp instruments shall be segregated from other wastes and placed in an approved sharps container.

(f) All furniture and fixtures necessary to the practice of tattooing shall be provided and constructed to ensure adequate cleaning and sanitation. Adequate lighting and ventilation shall be provided in the tattoo studio. Equipment necessary to provide for proper aseptic techniques and sterilization shall be provided, including an autoclave in good repair. Floors, ceilings, walls and restrooms shall be maintained in a sanitary condition. The studio and

equipment shall be maintained in good repair and the premises shall be kept clean, neat and free of litter and rubbish.

**62-38-204. Tattoo artist and operator registration, licensing and permits --
Temporary and apprentice artists.**

(a) No person shall engage in the practice of tattooing or act as a tattoo artist unless the person has registered as a tattoo artist with the department of health. A statewide tattoo artist license shall be issued and is transferable within this state to any studio holding a current studio certificate issued by a local health department. The department of health may, at its option, direct the local health department to act in its behalf in the application, examination and collection of funds concerning tattoo artist registration.

(b) No holder of a studio permit issued under this part shall allow a tattoo artist to engage in tattooing unless the tattoo artist:

(1) Has attained eighteen (18) years of age;

(2) Currently holds a tattoo artist license; and

(3) Either has a fourteen-day temporary permit or has an apprentice artist license.

(c) Any person desiring to engage in the practice of tattooing shall submit an application to the department of health or its designee. There shall be three (3) types of tattoo artist licenses: tattoo artist, apprentice artist and temporary artist. All tattoo artist and apprentice artist registrations shall expire on December 31 of each year. A tattoo artist, apprentice artist and temporary artist shall pay an annual fee of \$140.

(d) All tattooing shall be under the auspices of a tattoo studio holding a current studio certificate issued by the local health department.

(e) Each tattoo operator or tattoo artist shall, before receiving a permit to operate a tattoo establishment or to apply a tattoo, undergo a training program to include:

(1) The alliance of professional tattooist course in sterilization;

(2) A local or state health department program;

(3) A course approved by the local health department in methods and techniques for the proper sterilization of instruments and materials used in tattooing; or

(4) Present acceptable evidence of having satisfactorily completed a course of instruction in sterilization techniques and methods from a college/medical sterilization course.

(f) The tattoo operator or tattoo artist, or both, shall be required to take and pass an examination concerning this part before a tattoo artist permit shall be issued. The

examination shall be a written examination prescribed by the local health department. After passing the examination and complying with the other provisions of this part, a license shall be issued.

(g) In order to receive a tattoo artist license, the tattooist shall be trained in the profession of tattooing to include sterilization methods in a certified shop for at least one (1) year, under a currently licensed tattoo artist who has been certified and operating in compliance with applicable laws in this state for no less than three (3) years. Out of state tattoo artists must be able to show proof of at least two (2) years' experience as a professional tattoo artist in another state. Business licenses, tax records, etc. may be used to show proof of prior work. Artists currently in business in Tennessee on October 1, 1996, shall be exempt from this subsection (g).

(h) An apprentice artist license shall be issued if an artist is unable to comply with any of the provisions of this part. An artist shall remain an apprentice artist until all qualifications or provisions of this part have been met.

(i) A tattoo operator shall, unless registered as a tattoo artist, register with the department of health and shall comply with all provisions of this part, except for subsection (g). A tattoo operator shall pay an annual fee of \$140.

(j) All fees shall be paid to the commissioner. If any fee is delinquent for more than thirty (30) calendar days, a penalty of one half (1/2) the fee shall be added to the fee. If a check is returned for any reason, a penalty of one half (1/2) the fee shall be added to the fee. The permit fee plus any penalty must be paid before the permit is issued.

(k) An applicant whose license has expired for more than one (1) year must reapply for licensure pursuant to subsection (g).

62-38-205. Temporary locations.

(a) A registered tattoo business may set up at temporary locations other than a tattoo studio, e.g., tattoo conventions, with the written approval of the local health department, for a period not to exceed ten (10) days; provided, that each artist not previously registered with the department of health shall register and pay a fee of fifty dollars (\$50.00) to the department.

(b) Temporary facilities, e.g., tattoo conventions, shall be held to the same sanitary standards as those required of tattoo studios. Temporary facility permits shall be issued by the local health department, to include:

- (1)** An area where tattooing can be performed in a limited access location;
- (2)** Adequate sterilization equipment supplied;
- (3)** Waste receptacles and sharps containers supplied;

(4) Individual containers of water for each client in single use rinse cups; and

(5) Disinfectant sprays at each tattoo artist's work area.

(c) A temporary tattoo artist registration may be issued for no more than fourteen (14) days. The holder of the studio certificate shall also sign for the temporary license from the department of health and all tattooing shall be under the auspices of the studio certificate holder and in compliance with this part. Artists may apply tattoos if a copy of the state application and a receipt for the fifty dollar (\$50.00) fee is on display at the studio. The sterilization course, written examination and work experience shall be waived for the temporary permit. A temporary license is not transferable nor may it be renewed.

62-38-206. Posting studio certificate permit and copy of statutes.

(a) It is the duty of the owner or operator of a tattoo establishment to post the current studio certificate permit in a conspicuous place where it may be readily observed by the public.

(b) It is the duty of the owner or operator of a tattoo establishment to post a copy of the statutes contained in this part in a conspicuous place where it may be readily observed by the public.

62-38-207. Records -- Signed acknowledgement by parent or guardian of minor -- Attestations -- Instructions.

(a) (1) A record showing the date of a client's visit, the client's name, with the client's signature, address and date of birth, design of the tattoo, its location on the client's body and the name of the tattoo artist who performed the service shall be maintained by tattoo studios for two (2) years.

(2) If tattooing services are provided to a minor pursuant to § 62-38-211, the tattoo artist performing such services shall obtain a signed acknowledgement from the minor's parent or guardian that such parent or guardian has reviewed the statutes contained in this part, and the tattoo studio where such services are performed shall send a copy of both the signed acknowledgement and the record made pursuant to subdivision (a)(1) to the department. The department shall maintain any copy of a record and accompanying signed acknowledgement that it receives pursuant to this subdivision (a)(2) until two (2) years following the eighteenth birthday of the minor who is the subject of the record.

(b) Records shall be entered in ink and shall be made available to the local health department upon request, at a reasonable time, for examination.

(c) Clients receiving a tattoo shall attest to the fact that they are not under the influence of drugs or alcohol.

(d) Printed instructions on the care of skin shall be given to each client after tattooing and a copy of the instructions shall be posted in a conspicuous place in the tattoo studio.

62-38-208. Violation for operating without a permit or with a revoked or suspended permit.

(a) Any person who does not obtain a permit as required in § 62-38-202 or whose permit has been revoked or suspended and who continues to tattoo or operate a tattoo establishment commits a Class B misdemeanor punishable only by a fine of five hundred dollars (\$500).

(b) Any suspension or revocation may be appealed to the local health officer who shall then conduct a hearing of the appeal in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The decision made by the local health officer concerning the appeal may be appealed to the commissioner, the appeal to the commissioner being limited to the issue of determining whether a material error of law was made at the hearing level.

(c) The department is encouraged to utilize its existing resources to collaborate with local law enforcement to identify and assess administrative penalties against persons who violate this part.

62-38-209. Hygiene -- Equipment -- Bandaging, removal of tattoos.

(a) Each tattoo artist shall use a single use lap cloth.

(b) Each tattoo artist shall thoroughly wash the tattoo artists's hands with an antibacterial solution and hot running water prior to and after administering any tattoo.

(c) Disposable, latex examination gloves shall be worn by a tattoo artist at all times while administering any tattoo. Gloves shall be changed and properly disposed of each time there is an interruption in the application of a tattoo or whenever their ability to function as a barrier is compromised.

(d) Only single use supplies or sterilized equipment may be used to apply a tattoo and shall be disposed of after each tattoo. This subsection (d) includes single use disposable razors, single use towels or wipes, lubricants from a collapsible tube and single use paper stencils or plastic stencils soaked in a germicidal solution. If the design is drawn directly onto the skin, it shall be applied only with a single use article. Dyes or pigments should be manufactured for the sole purpose of tattooing. Single use or individual portions of dye and ink pots or trays shall be used. After tattooing, single use items, dyes and containers shall be discarded and the tattoo area disinfected.

(e) All tubes and needles should be sealed for individual client use in autoclave bags with an autoclave indicator and date of sterilization clearly visible. Autoclave bags may be stored for use for up to one (1) year. Autoclave sterilization minimum standards shall mean holding in an autoclave for twenty (20) minutes, at fifteen pounds (15 lbs.) pressure, at a

temperature of two hundred sixty degrees fahrenheit (260 degrees F.) or one hundred twenty-seven degrees celsius (127 degrees C). After tattooing, used nondisposable instruments such as tubes shall be kept in a separate, puncture resistant container until properly cleaned, disinfected and sterilized using universal precautions and recognized medical methods.

(f) Each tattoo shall be bandaged, when applicable, before leaving the tattoo studio.

(g) No tattoo artist shall remove or attempt to remove any tattoo.

62-38-210. Local regulations superseded -- Applicability to physicians and surgeons.

(a) This part shall supersede all county and local regulations concerning tattooing to give uniformity in compliance within this state.

(b) This part does not apply to any physician, surgeon or any person under the supervision of a physician or surgeon who is licensed to practice medicine in this state.

(c) The commissioner shall promulgate rules governing implementation of this chapter.

62-38-211. Tattoos for persons under 18 years of age -- Reporting tattooing of minors -- Tattoos to cover up existing tattoos for minors 16 years of age or older - - False statements of age or exhibiting false identification by minors for purpose of obtaining tattoos.

(a) Except as provided in subsection (c), it is a Class A misdemeanor to tattoo a person under eighteen (18) years of age.

(b) (1) Any parent, legal guardian, teacher or medical provider or school resource officer for a minor under eighteen (18) years of age, who discovers that a minor has been tattooed is encouraged to report such discovery to the department within three (3) weekdays of making such discovery. Any report made pursuant to this subdivision (b)(1) shall be accompanied by the following information, to the extent that such information is known to the person making the report:

(A) The name, mailing address, telephone number, and email address of the minor's parent or legal guardian; and

(B) The name, mailing address, telephone number, and email address of the person who tattooed the minor.

(2) Within fourteen (14) days of receiving a report that is made pursuant to subdivision (b)(1), which report includes the name and mailing address of the parent or legal guardian of the minor who is the subject of the report, the department shall provide to the minor's parent or legal guardian, by first class United States mail, a written acknowledgement of receipt of the report.

(3) The department shall establish by rule a process whereby the reports that are required by this subsection (b) may be made by telephone. The department is authorized to establish by rule processes whereby the reports that are required by this subsection (b) may be made in person or by mail, email or other means of communication.

(c) (1) With the written consent of the parent or legal guardian, a minor sixteen (16) years of age or older may be tattooed to cover up an existing tattoo. A parent or legal guardian must present proof of guardianship or custody of the minor, an acknowledgement of receipt of a report provided pursuant to subdivision (b)(2), and must be present during the procedure.

(2) For purposes of subdivision (c)(1), "proof of guardianship or custody" includes a copy of an order of guardianship, a decree for custody, a birth certificate or any other form of proof of guardianship or custody that is permitted by rule of the department of health.

(d) Any person under eighteen (18) years of age who knowingly makes a false statement or exhibits false identification to the effect that the person is eighteen (18) years of age or older to any person providing tattoo services licensed or permitted under this part for the purpose of purchasing or obtaining the same commits delinquent acts taken through juvenile courts and the person shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than two hundred fifty dollars (\$250) and not less than twenty (20) hours of community service work, which fine or penalty shall not be suspended or waived.

62-38-212. Possession of tattoo paraphernalia.

(a) For the purposes of this section, "tattoo paraphernalia" includes, but is not limited to, any equipment, design patterns or needles used or intended for use in tattooing, whether professionally made or homemade, with the intent to permanently mark or color the skin with any pigment, ink, or dye that leaves a visible scar on the skin.

(b) (1) Except when used or possessed with the intent to use by a person licensed under this part, it is unlawful for any person to use, or to possess with intent to use, tattoo paraphernalia.

(2) Any person who violates this subsection (b) commits a Class A misdemeanor.

Tenn. Code Ann. § 62-38-301

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*** Current through the 2014 Regular Session ***

Title 62 Professions, Businesses and Trades
Chapter 38 Tattoos and Body Piercing
Part 3 Body Piercing

Tenn. Code Ann. § 62-38-301 (2014)

62-38-301. Part definitions.

As used in this part:

- (1) "Antibacterial" means a substance that inhibits and reduces the growth of bacteria;
- (2) "Approval" means written approval from the department of health indicating that the body piercing establishment has been inspected and meets all the terms of this part and the applicable rules;
- (3) "Body piercing" means the piercing of any part of the body for compensation by someone, other than a physician licensed under title 63, who utilizes a needle or other instrument for the purpose of inserting an object into the body for nonmedical purposes. "Body piercing" includes ear piercing except when the ear piercing procedure is performed on the ear with an ear piercing gun;
- (4) "Body piercing establishment" means any place, whether temporary or permanent, stationary or mobile, wherever situated, where body piercing is performed, including any area under the control of the operator;
- (5) "Body piercing establishment permit" or "permit" means the issuance of a written permit by the department to a body piercing establishment stating that the establishment, after inspection, was found to be in compliance with this part;
- (6) "Body piercing operator" or "operator" means a person who controls, operates, conducts or manages a body piercing establishment, whether or not the operator is actually engaging in body piercing;
- (7) "Body piercing service" or "body piercing procedure" means the service performed or the procedure utilized for body piercing;
- (8) "Body piercing technician" or "technician" means a person at least eighteen (18) years of age who engages in the practice or service of body piercing, regardless of the type of body ornament utilized or the body area to be pierced;

(9) "Body piercing technician license" means the issuance of a state license authorizing the person named in the license to engage in the practice or service of body piercing after fulfilling the requirements of this part;

(10) "Business" means any entity that provides body piercing services or procedures for compensation;

(11) "Commissioner" means the commissioner of health or the designee of the commissioner;

(12) "Department" means the department of health;

(13) "Disinfecting" means a process that kills or destroys nearly all disease-producing microorganisms, with the exception of bacterial spores;

(14) "License" means the issuance of a license to perform body piercing to an individual, partnership, firm, association or corporation;

(15) "Minor" means an individual under the age of eighteen (18);

(16) "Patron" means a person requesting and receiving body piercing services;

(17) "Premises" means the physical location of an establishment that offers and performs body piercing services;

(18) "Proof of age" means a driver license or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older, contains a photograph or other likeness of the individual and appears on its face to be valid;

(19) "Sterilization" means holding in an autoclave for fifteen (15) minutes at fifteen (15) pounds of pressure and at a temperature of two hundred and fifty degrees Fahrenheit (250 degrees F) or one hundred and twenty-one degrees Celsius (121 degrees C);

(20) "Sterilize" means a process by which all forms of microbial life, including bacteria, viruses, spores, and fungi, are destroyed; and

(21) "Universal precautions" means that all blood and body fluids are treated so as to contain all blood borne pathogens and taking proper precautions to prevent the spread of any blood borne pathogens.

62-38-302. License required -- Sanitation and sterilization compliance required.

No person shall perform a body piercing procedure without a license and in a manner that does not meet the standards for appropriate disinfecting and sterilization of invasive

equipment used in performing the procedures established by this part and the rules adopted pursuant to this part.

62-38-303. Permit required.

(a) To receive approval to offer body piercing services, a business must obtain a permit and demonstrate to the commissioner the ability to meet the requirements established by this part and the rules adopted pursuant to this part for safe performance of the body piercing procedures, training of the individuals who perform the procedures and maintenance of the required records.

(b) No person shall operate a business that offers body piercing services unless the commissioner has approved the business pursuant to this part. No person shall perform a body piercing procedure in a way that does not meet the safety and sanitation standards established pursuant to this part.

62-38-304. Inspections.

The commissioner shall conduct at least one (1) inspection of a business prior to issuing a permit under this part for a business to offer and perform body piercing services. The commissioner may conduct additional inspections as necessary for the approval process relative to each business. The commissioner may inspect an approved business at any time the commissioner deems necessary. In an inspection, the commissioner shall be given access to the premises of the business and to all records deemed relevant by the commissioner for the inspection.

62-38-305. Minimum age for procedure -- Exception authorized with consent -- Recordkeeping.

(a) No person shall perform a body piercing procedure on an individual who is under eighteen (18) years of age unless written consent has been given by the individual's parent, legal guardian or legal custodian in accordance with subsection (b); however, this subsection (a) shall not apply to an individual who has been emancipated by marriage or by a court order directly pertaining to body piercing.

(b) A parent, legal guardian or legal custodian of an individual under age eighteen (18) who desires to give consent to a business for performance of a body piercing procedure on the individual under the age of eighteen (18) shall do all of the following:

(1) Appear in person at the business at the time the procedure is performed;

(2) Sign a document provided by the business that explains the manner in which the procedure will be performed and the methods for proper care of the affected body area following performance of the procedure;

(3) Produce proof of age;

(4) Sign a statement that the individual is the minor's parent, legal guardian or legal custodian;

(5) (A) Present proof of guardianship or custody of the minor;

(B) For purposes of subdivision (b)(5)(A), "proof of guardianship or custody" includes a copy of an order of guardianship, a decree for custody, a birth certificate or any other form of proof of guardianship or custody that is permitted by rule of the department of health; and

(6) Sign a statement as specified by rule stating in writing that the individual consents to the procedure being performed on the minor and that the individual providing consent is in fact the parent, legal guardian or legal custodian of the minor. The statement shall include the following declarations and disclosures:

(A) The undersigned is fully aware that to falsify legal standing as to parentage or being the legal guardian or legal custodian is a Class C misdemeanor; and

(B) Pursuant to § 40-35-111, a Class C misdemeanor means imprisonment for a period of no greater than thirty (30) days or a fine not to exceed fifty dollars (\$50.00), or both.

(c) Records of body piercing procedures performed on minors shall be maintained by the operator for two (2) years. A copy of all paperwork on a minor shall be forwarded to the department within thirty (30) business days following the performance of the body piercing procedure, and the department shall retain such paperwork for two (2) years. The paperwork shall include, but not be limited to:

(1) The signed document that explains the manner in which the procedure will be performed and the methods for proper care;

(2) A copy of the proof of age;

(3) The statement in writing that the individual is the minor's parent, legal guardian or legal custodian; and

(4) The signed statement that provides consent to perform a body piercing procedure on a minor that stipulates that the individual understands the consequences for falsifying the individual's legal standing as to parentage or being the legal guardian or legal custodian.

62-38-306. Age restrictions -- Required records -- Penalty for violations.

(a) (1) Unless consent has been given in accordance with § 62-38-305, no individual who is under age eighteen (18) shall obtain or attempt to obtain a body piercing procedure.

(2) No individual shall knowingly show or give false information concerning the individual's name, age or emancipation.

(b) (1) No individual shall knowingly show or give any false information as to the name, age or other identification of an individual who is under age eighteen (18) for the purpose of obtaining for the individual under age eighteen (18) a body piercing procedure.

(2) No individual shall impersonate the parent, legal guardian or legal custodian of an individual who is under age eighteen (18) for the purpose of obtaining for the individual under age eighteen (18) a body piercing procedure.

(3) The operator shall require proof of age for any patron under the age of twenty-seven (27) and the operator shall retain a copy of the patron's proof of age documentation in the files of the business for a period of two (2) years from the time of the body piercing.

(c) It is a Class C misdemeanor for a violation of subdivision (b)(2) by an individual over the age of seventeen (17) who impersonates a parent, legal guardian or legal custodian.

62-38-307. Continuing requirements of body piercing business.

Each operator of a business that offers body piercing services shall do all of the following:

(1) Maintain procedures for ensuring that the technicians who perform body piercing procedures are adequately trained to perform the procedures properly;

(2) Comply with the safety and sanitation requirements for preventing transmission of infectious diseases;

(3) Require the technicians who perform body piercing procedures to disinfect and sterilize all invasive equipment or parts of equipment used in performing the procedures; and

(4) Ensure that weekly tests of the business's heat sterilization devices are performed that indicate whether the devices are killing microorganisms. The operator shall maintain documentation that the weekly tests are being performed, as well as the results of each test.

62-38-308. Administrative and regulatory action authorized.

(a) The commissioner shall promulgate emergency rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for the implementation and enforcement of this part. The rules shall include, at a minimum, all of the following:

(1) Safety and sanitation standards and procedures to be followed to prevent the transmission of infectious diseases during the performance of body piercing procedures, including a requirement that the operator provide to each patron printed instructions on the care of the skin after body piercing and requiring a copy of the instructions to be posted in a conspicuous place in the body piercing establishment;

(2) Standards and procedures to be followed for appropriate disinfecting and sterilization of

all invasive equipment or parts of equipment used in body piercing procedures; and

(3) Procedures for suspending and revoking licenses and permits pertaining to body piercing.

(b) The rules promulgated pursuant to this part shall establish universal blood and body fluid precautions to be used by any technician who performs body piercing procedures.

(c) The rules promulgated pursuant to this part may include standards and procedures to be followed by a business that offers body piercing services to ensure that the technicians who perform body piercing procedures for the business are adequately trained to perform the procedures properly.

(d) The rules promulgated pursuant to this part shall establish fees for issuing licenses and permits, as well as penalties for late payment. The fees shall be sufficient to cover one hundred percent (100%) of the department's cost of the program.

62-38-309. Application for commissioner's approval -- Requirements -- Inspections -- Renewals -- Temporary permits.

(a) No person shall operate a business offering body piercing services without first obtaining approval of the commissioner.

(b) Persons seeking approval to operate a business offering body piercing services shall apply to the commissioner on forms provided by the department. An applicant shall submit all applicable fees and information required by the department for processing the application. Information required by the department shall include, but not be limited to, the following:

(1) If the operator is an individual, the operator's name, personal address, personal telephone number, business address, business telephone number and the operator's occupation;

(2) A statement attesting that the operator intends to comply with all requirements of this part and the rules promulgated pursuant to this part;

(3) Plans and specifications of the place of business to clearly show that applicable provisions of the rules promulgated pursuant to this part are met, such plans and specifications to include, but not be limited to, the following:

(A) The total area to be used for the business;

(B) All entrances and exits;

(C) Number, location and types of plumbing fixtures, including all water supply facilities;

(D) A lighting plan;

(E) A floor plan showing the general layout of fixtures, equipment and body piercing stations; and

(F) A listing of all equipment to be used for body piercing procedures;

(4) Evidence that the operator shall perform the following functions:

(A) The operator shall maintain procedures ensuring that all technicians performing body piercing on the business premises have received appropriate training in body piercing;

(B) The operator shall maintain procedures ensuring that all technicians performing body piercing services for the business shall have received training, as evidenced by records of completion of courses or seminars provided by licensed physicians, registered nurses, organizations such as the American Red Cross, accredited learning institutions, appropriate governmental entities or other authorities recognized by the commissioner as being qualified to provide training in the following categories:

(i) First aid;

(ii) Safety and sanitation requirements for preventing transmission of infectious diseases;

(iii) Universal precautions against blood borne pathogens;

(iv) Appropriate piercing aftercare; and

(v) Any other training deemed appropriate by the commissioner;

(C) The operator shall maintain written records of equipment utilized by the business, including manufacturers, model numbers and dates of acquisition or purchase;

(D) The operator shall maintain procedures ensuring that technicians performing body piercing services on the business premises shall disinfect and sterilize all nondisposable equipment or parts of equipment used in performing procedures, as well as properly dispose of disposable items used in the procedures;

(E) The operator shall maintain procedures ensuring the performance of weekly biological monitoring tests of the business's heat sterilization devices to include the following:

(i) Maintenance of a log of all tests performed, the date of each test and the name of the person or independent testing entity performing the test;

(ii) Procedures for remedial action on the part of the operator to assure compliance with all sterilization requirements in the event a test indicates a heat sterilization device is not functioning properly; and

(iii) Any other tests deemed appropriate by the commissioner;

(F) The operator shall maintain records of each test performed and the results of each test for at least two (2) years and shall make the test records available to the commissioner upon request during normal business hours; and

(G) The operator shall maintain procedures ensuring the general health and safety of all individuals employed by the business;

(5) The operator shall identify any previous, current or similar approvals held by the operator for body piercing services in this state or any other state;

(6) The operator shall provide evidence and documentation of all applicable fee payments, inspections and approvals; and

(7) The operator shall make inquiry with each patron as to whether the patron is under the influence of drugs or alcohol, and the patron must state in writing that the patron is not under the influence of drugs or alcohol before any body piercing procedure may be performed.

(c) The commissioner shall conduct at least one (1) inspection of a business prior to approving it and before a permit is issued. The commissioner may conduct additional inspections as deemed necessary for approval purposes.

(d) Licenses and permits shall be valid for up to one (1) year; however, all licenses and permits shall expire on December 31 following the date of issuance.

(e) The operator shall give the commissioner access to the business premises and to all records required by this part that are deemed relevant by the commissioner for the purpose of making an inspection. All records shall be entered in ink or other permanent form and shall be made available to the commissioner upon request at any time during normal business hours of operation.

(f) A permit is not transferable. Any permanent change in location or change in ownership to any degree shall necessitate the operator's applying for a new permit with payment of all fees established by the commissioner.

(g) The department shall approve any such business for the purposes of operating on a time-limited basis in conjunction with a specific event. Time-limited body piercing establishments may be permitted at such events as fairs and other time-limited gatherings, if the commissioner determines that the body piercing operator meets the provisions contained in this part and the rules promulgated by the department. For the purpose of approval, the following shall occur:

(1) A permitted body piercing establishment may set up temporary locations, including, but

not limited to, body piercing conventions, at a place other than a body piercing establishment only with the approval of the commissioner for a period not to exceed ten (10) days; provided, that each technician not previously licensed with the Tennessee department of health shall obtain a license prior to performing body piercing at a temporary location;

(2) Temporary facilities shall be held to the same sanitary standards as those required of body piercing establishments;

(3) Temporary facility permits shall be issued by the commissioner and shall not be transferable or renewable;

(4) A temporary body piercing technician license shall not be issued for more than fourteen (14) days. The operator of the related establishment shall also sign for the temporary license from the department, and all body piercing shall be under the auspices of the body piercing establishment operator and shall be in compliance with this part. Technicians may perform body piercing if a copy of the temporary permit and the temporary technician license are on display at the temporary site. The sterilization course, written examination and work experience requirements may be waived by the commissioner for a temporary license;

(5) The applicant or operator shall submit all applicable fees and information the department determines necessary to process the application. The department shall take into consideration the department's costs associated with carrying out this subsection (g) when determining the appropriate fee.

(h) The permit of a business may be renewed annually by the department. Renewal shall occur following an annual inspection, assurance that all conditions set forth in this part, as well as the rules, are met and the payment of all fees set by the commissioner has been received.

62-38-310. Penalty.

A violation of this part by an operator or a technician is a Class B misdemeanor.