

FIRST REGULAR SESSION

# HOUSE BILL NO. 833

## 94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WASSON.

Read 1st time February 12, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2038L.01I

### AN ACT

To repeal sections 324.520 and 324.522, RSMo, and to enact in lieu thereof three new sections relating to the licensing of tattoo practitioners and establishments, with penalty provisions.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 324.520 and 324.522, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 324.520, 324.522, and 324.523, to read as follows:

324.520. 1. As used in sections 324.520 to [324.524] **324.526**, the following terms mean:

(1) "Body piercing", the perforation of human tissue other than an ear for a nonmedical purpose;

(2) "Branding", a permanent mark made on human tissue by burning with a hot iron or other instrument;

(3) "Controlled substance", any substance defined in section 195.010, RSMo;

(4) "Minor", a person under the age of eighteen;

(5) "Tattoo", one or more of the following:

(a) An indelible mark made on the body of another person by the insertion of a pigment under the skin; or

(b) An indelible design made on the body of another person by production of scars other than by branding.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14           2. No person shall knowingly tattoo, brand or perform body piercing on a minor unless  
15 such person obtains the prior written informed consent of the minor's parent or legal guardian.  
16 The minor's parent or legal guardian shall execute the written informed consent required pursuant  
17 to this subsection in the presence of the person performing the tattooing, branding or body  
18 piercing on the minor, or in the presence of an employee or agent of such person. Any person  
19 who fraudulently misrepresents himself or herself as a parent is guilty of a class B misdemeanor.

20           3. A person shall not tattoo, brand or perform body piercing on another person if the  
21 other person is under the influence of intoxicating liquor or a controlled substance.

22           4. A person who violates [this section] **any provision of sections 324.520 to 324.526**  
23 is guilty of a misdemeanor and shall be fined not more than five hundred dollars. If there is a  
24 subsequent violation [of this section] within one year of the initial violation, such person shall  
25 be fined not less than five hundred dollars or more than one thousand dollars.

26           5. No person under the age of eighteen shall tattoo, brand or perform body piercing on  
27 another person.

          324.522. 1. No practitioner of tattooing, body piercing or branding shall practice and  
2 no establishment in which tattoos, body piercing or brandings are applied shall be operated  
3 without a license issued by the director of the division of professional registration. The license  
4 fee for each practitioner and each establishment shall be established by rule.

5           2. The director of the division of professional registration shall promulgate rules and  
6 regulations relative to the hygienic practice of tattooing, body piercing and branding[, and] ; **the**  
7 sanitary operations of tattoo, body piercing and branding establishments; **and the educational**  
8 **and training requirements for applicants applying to receive and practitioners desiring to**  
9 **maintain a license to practice any profession that is licensed or regulated under sections**  
10 **324.520 to 324.526.** Such rules and regulations shall include:

11           (1) Standards of hygiene to be met and maintained by establishments and practitioners  
12 in order to receive and maintain a license for the practice of tattooing, body piercing and  
13 branding;

14           (2) Procedures to be used to grant, revoke or reinstate a license;

15           (3) Inspection of tattoo, body piercing and branding establishments; and

16           (4) Any other matter necessary to the administration of this section.

17           3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that  
18 is created under the authority delegated in sections 324.520 to [324.524] **324.526** shall become  
19 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,  
20 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are  
21 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,  
22 RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently

23 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
24 after August 28, 2001, shall be invalid and void.

**324.523. 1. The division may refuse to issue or cause a complaint to be filed with  
2 the administrative hearing commission as provided by chapter 621, RSMo, against any  
3 holder of any certificate of registration or authority, permit, or license required under  
4 sections 324.520 to 324.526, or any person who has failed to renew or has surrendered his  
5 or her certificate of registration or authority, permit, or license for any one or any  
6 combination of the following causes:**

7       **(1) Use or illegal possession of any controlled substance, as defined in chapter 195,  
8 RSMo, or use of any alcoholic beverage to an extent that such use impairs a person's ability  
9 to perform the work of any profession that is licensed or regulated under sections 324.520  
10 to 324.526;**

11       **(2) Final adjudication and finding of guilt, or the entrance of a plea of guilty or nolo  
12 contendere, in a criminal prosecution under the laws of any state or of the United States,  
13 for any offense reasonably related to the qualifications, functions, or duties of any  
14 profession that is licensed or regulated under sections 324.520 to 324.526 and the  
15 regulations promulgated thereunder, for any offense an essential element of which is fraud,  
16 dishonesty, or an act of violence, or for any offense involving moral turpitude, whether or  
17 not sentence is imposed;**

18       **(3) Use of fraud, deception, misrepresentation, or bribery in securing any certificate  
19 of registration or authority, permit, or license required under sections 324.520 to 324.526;**

20       **(4) Obtaining or attempting to obtain any fee, charge, tuition, or other  
21 compensation by fraud, deception, or misrepresentation;**

22       **(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation, or  
23 dishonesty in the performance of the functions or duties of any profession that is licensed  
24 or regulated under sections 324.520 to 324.526;**

25       **(6) Violation of, or assisting or enabling any person to violate, any provision of  
26 sections 324.520 to 324.526, or of any lawful rule or regulation adopted under sections  
27 324.520 to 324.526;**

28       **(7) Impersonation of any person holding a certificate of registration or authority,  
29 permit, or license, or allowing any person to use his or her certificate of registration or  
30 authority, license, permit, or diploma from any school;**

31       **(8) Disciplinary action against the holder of a license or other right to practice any  
32 profession regulated under sections 324.520 to 324.526 granted by another state, territory,  
33 federal agency, or country upon grounds for which revocation or suspension is authorized  
34 in this state;**

35           (9) Final adjudication by a court of competent jurisdiction that a person is insane  
36 or incompetent;

37           (10) Assisting or enabling any person to practice or offer to practice any profession  
38 licensed or regulated under sections 324.520 to 324.526 who is not licensed and is currently  
39 ineligible to practice under sections 324.520 to 324.526;

40           (11) Causing the division to issue a certificate of registration or authority, permit,  
41 or license based on a material mistake of fact;

42           (12) Failure to display a valid license;

43           (13) Violation of any professional trust or confidence;

44           (14) Use of any advertisement or solicitation that is false, misleading, or deceptive  
45 to the general public or persons to whom the advertisement or solicitation is primarily  
46 directed;

47           (15) Failure or refusal to properly guard against contagious, infectious, or  
48 communicable diseases and the spread thereof.

49           2. After the filing of such complaint, the proceedings shall be conducted in  
50 accordance with the provisions of chapter 621, RSMo. Upon a finding by the  
51 administrative hearing commission that grounds for disciplinary action are present, as  
52 provided in subsection 1 of this section, the division may censure or place the person  
53 named in the complaint on probation on such terms and conditions as the division deems  
54 appropriate for a period not to exceed five years, or the division may suspend the license,  
55 certificate, or permit for a period not to exceed three years, or revoke the license,  
56 certificate, or permit.

57           3. The division, acting on its own knowledge or on written or verified complaint  
58 filed by any person, may discipline a person as provided in subsections 1 and 2 of this  
59 section, or the division may bring an action to enjoin any person, establishment, firm, or  
60 corporation from engaging in an occupation regulated under the provisions of sections  
61 324.520 to 324.526 if such person, firm, or corporation engages in or practices an  
62 occupation licensed under sections 324.520 to 324.526 without a license to do so. The action  
63 shall be brought in the county in which such person resides, or, in the case of an  
64 establishment, firm or corporation, where the establishment, firm, or corporation  
65 maintains its principal office; and unless it appears that such person, establishment, firm,  
66 or corporation so engaging or practicing such occupation is licensed, the injunction shall  
67 be issued, and such person, firm, or corporation shall be perpetually enjoined from  
68 engaging in such activities throughout the state.

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