

FIRST REGULAR SESSION

HOUSE BILL NO. 425

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES COOPER (Sponsor), SCHAAF,
RUESTMAN AND STEVENSON (Co-sponsors).

1175L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 324.520, 324.522, 324.523, 324.524, and 324.526, RSMo, and to enact in lieu thereof six new sections relating to licensure for tattooing, permanent cosmetics, body piercing, and branding, with penalty provisions.

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

Section A. Sections 324.520, 324.522, 324.523, 324.524, and 324.526, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 324.520, 324.522, 324.523, 324.524, 324.526, and 324.527, to read as follows:

324.520. 1. As used in sections 324.520 to [324.524] **324.527**, 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) **"Permanent cosmetics", the application of permanent or semi-permanent pigmentation to the face for cosmetic purposes or to any part of the body for scar coverage or other corrective purposes by the penetration of the skin with a needle or other instrument;**

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

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

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

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

25 3. A person shall not tattoo, **apply permanent cosmetics**, brand or perform body
26 piercing on another person if the other person is under the influence of intoxicating liquor or a
27 controlled substance.

28 4. A person who violates any provisions of sections 324.520 to [324.526] **324.527** is
29 guilty of a misdemeanor and shall be fined not more than five hundred dollars. If there is a
30 subsequent violation within one year of the initial violation, such person shall be fined not less
31 than five hundred dollars or more than one thousand dollars.

32 5. No person under the age of eighteen shall tattoo, **apply permanent cosmetics**, brand
33 or perform body piercing on another person.

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

6 2. The director of the division of professional registration shall promulgate rules and
7 regulations relative to the hygienic practice of tattooing, **permanent cosmetics**, body piercing
8 and branding, the sanitary operations of tattoo, body piercing and branding establishments, and
9 the educational and training requirements for applicants applying to receive and practitioners
10 desiring to maintain a license to practice any profession that is licensed or regulated under
11 sections 324.520 to [324.526] **324.527**. Such rules and regulations shall include:

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

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

16 (3) Inspection of tattoo, **permanent cosmetics**, body piercing and branding
17 establishments; and

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

19 3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
20 is created under the authority delegated in sections 324.520 to [324.526] **324.527** shall become
21 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,
22 and, if applicable, section 536.028, RSMo. [This section] **Sections 324.520 to 324.527** and
23 chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly
24 pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul
25 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
26 proposed or adopted 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 the
2 administrative hearing commission as provided by chapter 621, RSMo, against any holder of any
3 certificate of registration or authority, permit or license required under sections 324.520 to
4 [324.526] **324.527**, or any person who has failed to renew or has surrendered his or her certificate
5 of registration or authority, permit, or license for any one or any combination of the following
6 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 to
9 perform the work of any profession that is licensed or regulated under sections 324.520 to
10 [324.526] **324.527**;

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, for any
13 offense reasonably related to the qualifications, functions, or duties of any profession that is
14 licensed or regulated under sections 324.520 to [324.526] **324.527**, and the regulations
15 promulgated thereunder, for any offense an essential element of which is fraud, dishonesty, or
16 an act of violence, or for any offense involving moral turpitude, whether or not sentence is
17 imposed;

18 (3) Use of fraud, deception, misrepresentation, or bribery in securing any certificate of
19 registration or authority, permit or license required under sections 324.520 to [324.526] **324.527**;

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

22 (5) Incompetence, misconduct, gross negligence, fraud, misrepresentation, or dishonesty
23 in the performance of the functions or duties of any profession that is licensed or regulated under
24 sections 324.520 to [324.526] **324.527**;

25 (6) Violation of, or assisting or enabling any person to violate, any provision of sections
26 324.520 to [324.526] **324.527**, or any lawful rule or regulation adopted under sections 324.520
27 to [324.526] **324.527**;

28 (7) Impersonation of any person holding a certificate of registration or authority, permit,
29 or license, or allowing any person to use his or her certificate of registration or authority, license,
30 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] **324.527** granted by another state,
33 territory, federal agency, or country upon grounds for which revocation or suspension is
34 authorized in this state;

35 (9) Final adjudication by a court of competent jurisdiction that a person is insane or
36 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] **324.527** who is licensed and is
39 currently ineligible to practice under sections 324.520 to [324.526] **324.527**;

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

42 (12) Failure to display a valid license;

43 (13) Violation of any advertisement or solicitation that is false, misleading, or deceptive
44 to the general public, or persons to whom the advertisement or solicitation is primarily directed;

45 (14) Failure or refusal to properly guard against contagious, infectious, or communicable
46 diseases and the spread thereof.

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

54 3. The division, acting upon its own knowledge or written or verified complaint filed by
55 any person, may discipline a person as provided in subsections 1 or 2 of this section or the
56 division may bring an action to enjoin any person, establishment, firm, or corporation from
57 engaging in an occupation regulated by the provisions of sections 324.520 to [324.526] **324.527**,
58 if such person, firm, or corporation without being licensed to do so by the division engages in
59 or practices an occupation licensed under sections 324.520 to [324.526] **324.527**. The action
60 shall be brought in the county in which such person resides, or, in the case of an establishment,

61 firm, or corporation, where the establishment, firm, or corporation maintains its principal office;
62 and unless it appears that such person, establishment, firm, or corporation so engaging or
63 practicing such occupation is licensed, the injunction shall be issued, and such person, firm, or
64 corporation shall be perpetually enjoined from engaging in such activities throughout the state.

324.524. 1. All funds received by the division pursuant to sections 324.520 to [324.524]
2 **324.527** shall be collected by the director who shall transmit the funds to the department of
3 revenue for deposit in the state treasury to the credit of the "Tattoo Fund" which is hereby
4 created.

5 2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in
6 this fund shall not be transferred and placed to the credit of general revenue until the amount in
7 the fund at the end of the biennium exceeds three times the amount of the appropriation from the
8 tattoo fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that
9 amount in the fund which exceeds the appropriate multiple of the appropriations from the tattoo
10 fund for the preceding fiscal year.

324.526. 1. Notwithstanding any other law to the contrary, the director of the division
2 of professional registration shall issue a temporary license to practice tattooing, **permanent**
3 **cosmetics**, body piercing, or branding under the following requirements:

4 (1) The applicant for temporary licensure is entering the state for the sole purpose of
5 participating in a state or national convention at which the applicant will be practicing the
6 profession of tattooing, **permanent cosmetics**, body piercing, or branding;

7 (2) The applicant files a completed application with the division at least two days prior
8 to the start of the convention and tenders a fee of fifty dollars; and

9 (3) The applicant is otherwise qualified for licensure under sections 324.520 to [324.526]
10 **324.527** and the rule promulgated under the authority of [this statute] **section 324.522**.

11 2. A temporary license to practice tattooing, **permanent cosmetics**, body piercing, or
12 branding issued under this section shall be valid for a period not to exceed fourteen days and
13 shall not be renewable.

14 3. Notwithstanding the requirements of sections 324.024 and 324.032, an applicant for
15 temporary licensure under this section shall not be required to provide a Social Security number
16 if the application is submitted by a citizen of a foreign country who has not yet been issued a
17 Social Security number and who previously has not been licensed by any other state, United
18 States territory, or federal agency. A citizen of a foreign country who applies for a temporary
19 permit under this section shall provide the division of professional registration with his or her
20 visa or passport identification number in lieu of the Social Security number.

324.527. 1. No person shall operate a tattoo, permanent cosmetic, body piercing,
2 **or branding establishment unless such person obtains a license from the division of**

3 professional registration. An application for an establishment license shall be notarized
4 and accompanied by the appropriate fee.

5 2. No person shall tattoo, apply permanent cosmetics, body pierce, or brand
6 another person; use the title of tattooist, permanent cosmetic practitioner, body piercer,
7 or brander; designate or represent themselves to be a tattooist, permanent cosmetic
8 practitioner, body piercer, or brander unless he or she has obtained a license from the
9 division. An application for a practitioner license shall be notarized, and accompanied by
10 the appropriate fee and evidence of having successfully completed the following:

11 (1) A bloodborne pathogen training program or its equivalent which includes
12 infectious disease control, waste disposal, handwashing techniques, sterilization equipment
13 operation and methods, and sanitation, disinfection, and sterilization methods and
14 techniques; and

15 (2) First aid and cardiopulmonary resuscitation.

16 3. Training requirements for tattooing, body piercing, or branding shall include at
17 least three hundred documented hours of practical experience that includes, at a minimum,
18 fifty completed procedures in each area that the applicant has filed an application for
19 licensure. The documented work shall be certified and supervised by a currently licensed
20 Missouri practitioner or by a practitioner who is licensed to practice tattooing, body
21 piercing, or branding in another state, territory, or commonwealth whose requirements for
22 licensure are substantially equivalent to the requirements for licensure in Missouri. The
23 supervising practitioner shall be present during the entire procedure and shall be licensed
24 in the same field of practice in which the applicant has filed an application for licensure.

25 4. (1) An apprenticeship for a license in permanent cosmetics shall include at least
26 one hundred documented hours of practical experience certified by the Society of
27 Permanent Cosmetic Professionals. The documented work shall be certified and
28 supervised by a currently licensed Missouri practitioner with a minimum of five years'
29 experience and practice in permanent cosmetics. The supervising practitioner shall be
30 present during all procedures performed by the apprentice.

31 (2) In lieu of an apprenticeship for a license in permanent cosmetics, an applicant
32 may submit proof to the division of having completed licensing requirements from a state
33 whose licensing requirements are substantially equivalent to the requirements for licensure
34 in this state.

35 5. (1) In lieu of an apprenticeship, an applicant may submit proof that the
36 applicant has successfully completed a course of study in tattooing, body piercing,
37 permanent cosmetics, or branding in a school licensed or accredited as a school by any

38 state or federal agency. The course of study shall be completed in the same practice area
39 that the applicant has applied for a license.

40 (2) The course of study shall consist of at least three hundred documented hours
41 of instruction or training which shall include, at a minimum, instruction in sanitation,
42 equipment handling, disease control, skin treatment and skin infections, design and
43 artistry, and clinical practice. Applicants shall submit an official transcript demonstrating
44 compliance with the requirements of this section. Official transcripts shall be mailed
45 directly to the division by the school.

46 (3) A person applying under this subsection shall also submit proof of practical
47 experience that includes at least twenty-five completed procedures in the same field that
48 the applicant has applied for licensure. For purposes of this subsection, proof of practical
49 experience may be certified to by a school which meets the requirements of this section or
50 by any person licensed to practice tattooing, permanent cosmetics, branding, or body
51 piercing in another state, territory, or commonwealth.

52 (4) In lieu of an apprenticeship, an applicant may submit proof or other evidence
53 which verifies that the applicant has within the last seven years practiced for a minimum
54 of three years in the same practice area that the applicant has applied for licensure.
55 Sufficient proof or evidence may include, but is not limited to:

56 (a) Affidavits from prior employers or supervisors;

57 (b) W-2 or 1099 forms; or

58 (c) Tax returns verifying occupational status.

59 6. Within a reasonable period of time after receiving a completed notarized
60 application for licensure, the division shall either approve the application and issue a
61 license or deny the application. If the application is denied, the division shall give the
62 applicant reasons in writing for the denial and provide information about how the
63 applicant may appeal the decision.

64 7. The division shall not issue a license to a new or temporary tattoo, permanent
65 cosmetic, body piercing, or branding establishment or a new operator at an existing
66 establishment without completing an inspection of the establishment to ensure that the
67 establishment complies with the requirements set forth in this section.

68 8. An applicant who is approved for licensure shall receive one license. Duplicate
69 licenses may be provided upon payment of the appropriate fee under rules promulgated
70 by the division.

71 9. A person licensed to practice tattooing, permanent cosmetics, body piercing, or
72 branding in another state, territory, or commonwealth may apply for licensure by
73 reciprocity in the same practice area if the other state, territory, or commonwealth has

74 requirements that are substantially equivalent to the requirements of this state for the
75 licensure sought. Applicants for licensure by reciprocity shall submit or cause to be
76 submitted the following:

- 77 (1) A completed notarized application and the accompanying fee;
78 (2) A copy of a current tattoo, permanent cosmetics, body piercing, or branding
79 license from another state, territory, or commonwealth;
80 (3) A current copy of the rules pertaining to tattooing, permanent cosmetics, body
81 piercing, or branding from the other state, territory, or commonwealth; and
82 (4) A letter of license verification mailed by the state, territory, or commonwealth
83 licensing agency to the division which shall include:
84 (a) Verification that the applicant holds a valid and unexpired license;
85 (b) The license issuance date;
86 (c) The license expiration date; and
87 (d) A statement verifying whether the applicant has ever been subject to discipline
88 or if there are any complaints or investigations pending against the licensee;
89 (5) Upon request, a consent that allows the division to examine disciplinary,
90 complaint, or investigative records of the other licensing authority.

91
92 A person applying for licensure by reciprocity from a state, territory, or commonwealth
93 whose licensing requirements are less stringent than those in force in this state shall be
94 required to meet the requirements established by the division.

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