



2013 SENATE BILL 450

December 16, 2013 - Introduced by Senator LEHMAN, cosponsored by Representatives BERCEAU and A. OTT. Referred to Committee on Health and Human Services.

1 **AN ACT to repeal** 252.23 (3) and 252.24 (3); **to renumber** 252.23 (1) (a); **to**
2 **amend** 252.23 (title), 252.23 (2), 252.23 (4) (a), 252.23 (4m), 252.24 (2), 252.24
3 (4) (a), 252.24 (4m), 252.241 (1) and 252.245 (9); and **to create** 252.23 (1) (ag),
4 252.23 (3c) to (3r), 252.24 (1) (d) and 252.24 (3c) to (3r) of the statutes; **relating**
5 **to:** regulation of tattooing and body piercing.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health Services (DHS) must provide for uniform statewide licensing and regulation of tattooists and body piercers (collectively, body art practitioners) and of tattoo and body-piercing establishments (collectively, body art establishments). Current law prohibits a person from, with limited exceptions, tattooing or attempting to tattoo another, designating or representing himself or herself as a tattooist, or using or assuming the title "tattooist" unless the person is licensed by DHS or a local health department designated as DHS's agent (local health department). Likewise, current law prohibits a person from, with limited exceptions, piercing the body of or attempting to pierce the body of another, designating or representing himself or herself as a body piercer, or using or assuming the title "body piercer" unless the person is licensed by DHS or a local health department. Current law requires DHS to promulgate rules pertaining to body art practitioners and body art establishments, including rules setting standards and procedures for the annual issuance of licenses and rules setting standards for: a) the performance of tattooing and body piercing by licensed

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body art practitioners and b) the maintenance of licensed body art establishments that will promote safe and adequate care and treatment for individuals who receive tattoos or body piercings and eliminate or greatly reduce the danger of exposure on the part of these individuals to communicable disease or infection. This bill retains the foregoing prohibitions and DHS's rule-making authority regarding body art practitioners and establishments, but adds a number of provisions pertaining to the regulation and licensing of body art practitioners and establishments.

The bill includes the following provisions with respect to body art practitioners:

1. The bill provides that, in order to obtain a body art practitioner license, a person must: a) be at least 18 years old; b) pay a licensure fee; c) provide proof of having completed, in the 36 months before applying for a license, coursework approved by DHS on bloodborne pathogens, the prevention of disease transmission, infection control, and aseptic technique; and d) provide proof of having at least 200 hours of experience gained under the supervision of a licensed tattooist or body piercer, depending on which license the person is seeking. The requirements specified in c) and d) for an initial body art practitioner license, however, do not apply to an individual who was licensed as a body art practitioner on the bill's effective date. In addition, the bill allows DHS or a local health department to waive the requirements specified in c) and d) for an individual who is licensed in another jurisdiction with licensure requirements that meet or exceed those under the bill.

2. The bill allows DHS to grant a training license to an individual who lacks the required 200 hours of supervised experience but who otherwise satisfies the requirements for licensure as a body art practitioner, if the individual provides DHS or a local health department with a signed letter from a licensed body art practitioner who holds the same license the applicant is seeking, stating that the applicant will be training in one or more licensed tattoo or body-piercing establishments with one or more licensed tattooists or body piercers, as applicable, in order to obtain the required hours of supervised experience. An individual possessing a tattooist or body piercer training license may, under the bill, perform tattooing or body piercing only under the supervision of a licensed tattooist or body piercer, whichever is applicable. A training license may, under the bill, be renewed only one time.

3. The bill provides that a body art practitioner license may be renewed by submitting to DHS or a local health department a renewal application; the required fee; and proof of having completed, in the 36 months preceding the renewal date, coursework approved by DHS on bloodborne pathogens, the prevention of disease transmission, infection control, and aseptic technique.

The bill also adds a number of provisions pertaining to the regulation and licensing of body art establishments, including requiring an individual applying for a license to operate a body art establishment to: a) provide certain information about the establishment, including the establishment's location and the names of all owners and operators; and b) submit to an inspection of the establishment to ensure that it meets applicable requirements.

The bill requires every body art practitioner to keep a record of each patron he or she serves at a body art establishment, which must include the patron's and body art practitioner's names, the patron's address, documentation of the patron's age and

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consent, and any adverse effects that arose during the procedure. The bill requires each record to be retained for a minimum of two years.

Finally, the bill gives DHS and local health departments the authority to revoke, suspend, or refuse to renew a body art practitioner's or body art establishment's license for certain specified reasons and for any violation of laws, rules, or ordinances regulating body art practitioners and establishments.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 252.23 (title) of the statutes is amended to read:

2 **252.23** (title) **Regulation of tattooists and tattoo establishments.**

3 **SECTION 2.** 252.23 (1) (a) of the statutes is renumbered 252.23 (1) (ar).

4 **SECTION 3.** 252.23 (1) (ag) of the statutes is created to read:

5 252.23 (1) (ag) "Local health department" means a local health department
6 that is designated as the department's agent under s. 252.245.

7 **SECTION 4.** 252.23 (2) of the statutes is amended to read:

8 252.23 (2) DEPARTMENT; DUTY. Except as provided in ss. 250.041 and 252.241,
9 the department shall provide uniform, statewide licensing and regulation of
10 tattooists and uniform, statewide licensing and regulation of tattoo establishments
11 under this section. The department or a local health department shall inspect a
12 tattoo establishment once before issuing a license for the tattoo establishment under
13 this section and may make additional inspections that the department or local health
14 department determines are necessary.

15 **SECTION 5.** 252.23 (3) of the statutes is repealed.

16 **SECTION 6.** 252.23 (3c) to (3r) of the statutes are created to read:

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1 252.23 (3c) TATTOOISTS. (a) *Use of title.* No person may designate or represent
2 himself or herself as a tattooist or use or assume the title “tattooist” unless the person
3 is licensed under par. (c) 1. by the department or by a local health department.

4 (b) *License required to practice.* 1. Except as provided in sub. (5), no person may
5 tattoo or attempt to tattoo another unless the person is licensed under par. (c) 1. or
6 4. by the department or by a local health department.

7 2. An individual licensed under par. (c) 4. may only tattoo or attempt to tattoo
8 another while training under the supervision of a tattooist licensed under par. (c) 1.
9 in a tattoo establishment licensed under sub. (3g) (b).

10 (c) *Requirements for license.* 1. Subject to subds. 2. and 3., the department or
11 a local health department may grant a license to act as a tattooist to an applicant who
12 applies for a license and satisfies all of the following requirements:

13 a. The applicant is at least 18 years old.

14 b. The applicant pays the required fee.

15 c. The applicant provides proof that he or she has, in the 36 months preceding
16 the application date, completed coursework approved by the department on
17 bloodborne pathogens, the prevention of disease transmission, infection control, and
18 aseptic technique.

19 d. The applicant provides proof that he or she has at least 200 hours of
20 experience gained under the supervision of one or more licensed tattooists.

21 2. The requirements under subd. 1. c. and d. do not apply to an individual who
22 possessed a tattooist license under s. 252.23 (3), 2011 stats., on April 1, 2015.

23 3. The department or local health department may waive the requirements
24 under subd. 1. c. and d. for an applicant who provides evidence to the department or
25 local health department that he or she is licensed, certified, or registered as a

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1 tattooist in another jurisdiction that has standards for licensure, certification, or
2 registration that meet or exceed the requirements under subd. 1. and that he or she
3 is in good standing in that jurisdiction.

4 4. The department or a local health department may grant a training license
5 to an applicant who satisfies the requirements under subd. 1. a. to c. and provides
6 to the department or local health department a signed letter from a tattooist licensed
7 under subd. 1. that the applicant will be training in one or more tattoo
8 establishments licensed under sub. (3g) (b) with one or more tattooists who are
9 licensed under subd. 1. in order to achieve the experience requirement under subd.
10 1. d.

11 (d) *Term and renewal of license.* 1. Except as provided in sub. (3m), a license
12 issued under par. (c) 1. or 4. is valid until the next June 30, except that, if the license
13 is issued between April 1 and June 30, the license is valid until June 30 of the
14 following year. A license renewed under subd. 2. is valid for one year following the
15 expiration date.

16 2. A person may renew a license issued under par. (c) 1. or 4. by submitting to
17 the department or a local health department a renewal application; the required fee;
18 and proof of having completed, in the 36 months preceding the renewal date,
19 coursework approved by the department on bloodborne pathogens, the prevention of
20 disease transmission, infection control, and aseptic technique.

21 3. A license issued under par. (c) 4. may only be renewed once.

22 **(3g) TATTOO ESTABLISHMENTS.** (a) *Operation.* No person may operate a tattoo
23 establishment unless the tattoo establishment is licensed under par. (b) by the
24 department or by a local health department.

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1 (b) *Requirements for license.* The department or a local health department may
2 grant a license to operate a tattoo establishment to an applicant who applies for a
3 license if all of the following requirements are satisfied:

4 1. The applicant provides a description of the tattoo establishment, including
5 the names of all owners and operators, the location of the tattoo establishment, and
6 any other information required by the department or the local health department.

7 2. The applicant pays the required fee.

8 3. The department or a local health department conducts an inspection of the
9 tattoo establishment to ensure that the tattoo establishment meets the requirements
10 under this section.

11 (c) *Term and renewal of license.* 1. Except as provided in sub. (3m), a license
12 issued under par. (b) is valid until the next June 30, except that, if the license is
13 issued between April 1 and June 30, the license is valid until June 30 of the following
14 year. A license renewed under subd. 2. is valid for one year following the expiration
15 date.

16 2. A person may renew a license issued under par. (b) by submitting a renewal
17 application to the department or a local health department with the required fee.

18 **(3m) DISCIPLINE AGAINST LICENSE HOLDERS.** (a) The department or a local health
19 department may take any of the following actions against a person holding a license
20 under sub. (3c) or (3g) for any of the reasons specified in par. (b) or (c):

21 1. Refuse to renew a license.

22 2. Suspend a license for a period not exceeding one year.

23 3. Revoke a license.

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1 (b) The department or a local health department may take action under par.
2 (a) against a person holding a license issued under sub. (3c) for any of the following
3 reasons:

- 4 1. The person fails to keep patron records, as required under sub. (3r).
- 5 2. Any violation of, or any failure to comply with a requirement of, this section
6 or s. 252.245 or rules, regulations, or ordinances promulgated, adopted, or enacted
7 under this section or s. 252.245.

8 (c) The department or a local health department may take action under par. (a)
9 against a person holding a license issued under sub. (3g) for any of the following
10 reasons:

- 11 1. The person fails to ensure that patron records are kept, as required under
12 sub. (3r).
- 13 2. A failure to permit an inspection.
- 14 3. There is evidence that unlicensed individuals have performed tattooing in
15 a tattoo establishment.
- 16 4. Any other reason, as determined by the department or local health
17 department, relating to the sanitary or safety conditions of a tattoo establishment.
- 18 5. Any violation of, or any failure to comply with a requirement of, this section
19 or s. 252.245 or rules, regulations, or ordinances promulgated, adopted, or enacted
20 under this section or s. 252.245.

21 **(3r) RECORDS.** Every tattooist shall keep a record of each patron served by the
22 tattooist at a tattoo establishment. A patron's record shall include the patron's name,
23 address, documentation of the patron's age and consent, the name of the tattooist,
24 and any adverse effects that arose while tattooing the patron. A patron's record shall
25 be retained for a minimum of 2 years.

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1 **SECTION 7.** 252.23 (4) (a) of the statutes is amended to read:

2 252.23 (4) (a) Except as provided in ss. 250.041 and 252.241 and subject to sub.
3 (4m), standards and procedures, including fee payment to offset the cost of licensing
4 tattooists and tattoo establishments, for the annual issuance of licenses as tattooists
5 or as tattoo establishments to applicants under this section. The department may
6 not promulgate a rule that imposes a fee for a license under sub. ~~(3)~~ (3c) or (3g) on
7 an individual who is eligible for the veterans fee waiver program under s. 45.44.

8 **SECTION 8.** 252.23 (4m) of the statutes is amended to read:

9 252.23 (4m) MILITARY EXPERIENCE. Any relevant education, training,
10 instruction, or other experience that an applicant has obtained in connection with
11 military service, as defined in s. 111.32 (12g), counts toward satisfying standards
12 related to education, training, instruction, or other experience for issuing a license
13 as a tattooist if the applicant demonstrates to the satisfaction of the department or
14 local health department that the education, training, instruction, or other
15 experience that the applicant obtained in connection with his or her military service
16 is substantially equivalent to the education, training, instruction, or other
17 experience that is required for the issuance of a license for a tattooist.

18 **SECTION 9.** 252.24 (1) (d) of the statutes is created to read:

19 252.24 (1) (d) "Local health department" means a local health department that
20 is designated as the department's agent under s. 252.245.

21 **SECTION 10.** 252.24 (2) of the statutes is amended to read:

22 252.24 (2) DEPARTMENT; DUTY. Except as provided in ss. 250.041 and 252.241,
23 the department shall provide uniform, statewide licensing and regulation of body
24 piercers and uniform, statewide licensing and regulation of body-piercing
25 establishments under this section. The department or a local health department

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1 shall inspect a body-piercing establishment once before issuing a license for the
2 body-piercing establishment under this section and may make additional
3 inspections that the department or local health department determines are
4 necessary.

5 **SECTION 11.** 252.24 (3) of the statutes is repealed.

6 **SECTION 12.** 252.24 (3c) to (3r) of the statutes are created to read:

7 252.24 (3c) BODY PIERCERS. (a) *Use of title.* No person may designate or
8 represent himself or herself as a body piercer or use or assume the title "body piercer"
9 unless the person is licensed under par. (c) 1. by the department or by a local health
10 department.

11 (b) *License required to practice.* 1. Except as provided in sub. (5), no person may
12 pierce the body of or attempt to pierce the body of another unless the person is
13 licensed under par. (c) 1. or 4. by the department or by a local health department.

14 2. An individual licensed under par. (c) 4. may only pierce the body of or attempt
15 to pierce the body of another while training under the supervision of a body piercer
16 licensed under par. (c) 1. in a body-piercing establishment licensed under sub. (3g)
17 (b).

18 (c) *Requirements for license.* 1. Subject to subds. 2. and 3., the department or
19 a local health department may grant a license to act as a body piercer to an applicant
20 who applies for a license and satisfies all of the following requirements:

21 a. The applicant is at least 18 years old.

22 b. The applicant pays the required fee.

23 c. The applicant provides proof that he or she has, in the 36 months preceding
24 the application date, completed coursework approved by the department on

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1 bloodborne pathogens, the prevention of disease transmission, infection control, and
2 aseptic technique.

3 d. The applicant provides proof that he or she has at least 200 hours of
4 experience gained under the supervision of one or more licensed body piercers.

5 2. The requirements under subd. 1. c. and d. do not apply to an individual who
6 possessed a body-piercer license under s. 252.24 (3), 2011 stats., on April 1, 2015.

7 3. The department or local health department may waive the requirements
8 under subd. 1. c. and d. for an applicant who provides evidence to the department or
9 local health department that he or she is licensed, certified, or registered as a body
10 piercer in another jurisdiction that has standards for licensure, certification, or
11 registration that meet or exceed the requirements under subd. 1. and that he or she
12 is in good standing in that jurisdiction.

13 4. The department or a local health department may grant a training license
14 to an applicant who satisfies the requirements under subd. 1. a. to c. and provides
15 to the department or local health department a signed letter from a body piercer
16 licensed under subd. 1. that the applicant will be training in one or more
17 body-piercing establishments licensed under sub. (3g) (b) with one or more body
18 piercers who are licensed under subd. 1. in order to achieve the experience
19 requirement under subd. 1. d.

20 (d) *Term and renewal of license.* 1. Except as provided in sub. (3m), a license
21 issued under par. (c) 1. or 4. is valid until the next June 30, except that, if the license
22 is issued between April 1 and June 30, the initial license is valid until June 30 of the
23 following year. A license renewed under subd. 2. is valid for one year from the
24 expiration date.

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1 2. A person may renew a license issued under par. (c) 1. or 4. by submitting to
2 the department or a local health department a renewal application; the required fee;
3 and proof of having completed, in the 36 months preceding the renewal date,
4 coursework approved by the department on bloodborne pathogens, the prevention of
5 disease transmission, infection control, and aseptic technique.

6 3. A license issued under par. (c) 4. may only be renewed once.

7 **(3g) BODY-PIERCING ESTABLISHMENTS.** (a) *Operation.* No person may operate
8 a body-piercing establishment unless the body-piercing establishment is licensed
9 under par. (b) by the department or by a local health department.

10 (b) *Requirements for license.* The department or a local health department may
11 grant a license to operate a body-piercing establishment to an applicant who applies
12 for a license if all of the following requirements are satisfied:

13 1. The applicant provides a description of the body-piercing establishment,
14 including the names of all owners and operators, the location of the body-piercing
15 establishment, and any other information required by the department or the local
16 health department.

17 2. The applicant pays the required fee.

18 3. The department or a local health department conducts an inspection of the
19 body-piercing establishment to ensure that the body-piercing establishment meets
20 the requirements under this section.

21 (c) *Term and renewal of license.* 1. Except as provided in sub. (3m), a license
22 issued under par. (b) is valid until the next June 30, except that, if the license is
23 issued between April 1 and June 30, the license is valid until June 30 of the following
24 year. A license renewed under subd. 2. is valid for one year following the expiration
25 date.

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1 2. A person may renew a license issued under par. (b) by submitting a renewal
2 application to the department or a local health department with the required fee.

3 **(3m) DISCIPLINE AGAINST LICENSE HOLDERS.** (a) The department or a local health
4 department may take any of the following actions against a person holding a license
5 under sub. (3c) or (3g) for any of the reasons specified in par. (b) or (c):

6 1. Refuse to renew a license.

7 2. Suspend a license for a period not exceeding one year.

8 3. Revoke a license.

9 (b) The department or a local health department may take action under par.
10 (a) against a person holding a license issued under sub. (3c) for any of the following
11 reasons:

12 1. The person fails to keep patron records, as required under sub. (3r).

13 2. Any violation of, or any failure to comply with a requirement of, this section
14 or s. 252.245 or rules, regulations, or ordinances promulgated, adopted, or enacted
15 under this section or s. 252.245.

16 (c) The department or a local health department may take action under par. (a)
17 against a person holding a license issued under sub. (3g) for any of the following
18 reasons:

19 1. The person fails to ensure that patron records are kept, as required under
20 sub. (3r).

21 2. A failure to permit an inspection.

22 3. There is evidence that unlicensed individuals have performed body piercing
23 in a body-piercing establishment.

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1 4. Any other reason, as determined by the department or local health
2 department, relating to the sanitary or safety conditions of a body-piercing
3 establishment.

4 5. Any violation of, or any failure to comply with a requirement of, this section
5 or s. 252.245 or rules, regulations, or ordinances promulgated, adopted, or enacted
6 under this section or s. 252.245.

7 **(3r) RECORDS.** Every body piercer shall keep a record of each patron served by
8 the body piercer at a body-piercing establishment. A patron's record shall include
9 the patron's name, address, documentation of the patron's age and consent, the name
10 of the body piercer, and any adverse effects that arose while piercing the body of the
11 patron. A patron's record shall be retained for a minimum of 2 years.

12 **SECTION 13.** 252.24 (4) (a) of the statutes is amended to read:

13 252.24 **(4)** (a) Except as provided in ss. 250.041 and 252.241 and subject to sub.
14 (4m), standards and procedures, including fee payment to offset the cost of licensing
15 body piercers and body-piercing establishments, for the annual issuance of licenses
16 as body piercers or as body-piercing establishments to applicants under this section.
17 The department may not promulgate a rule under which the department may charge
18 an individual who is eligible for the veterans fee waiver program under s. 45.44 a fee
19 to obtain a license under sub. ~~(3)~~ (3c) or (3g).

20 **SECTION 14.** 252.24 (4m) of the statutes is amended to read:

21 252.24 **(4m) MILITARY EXPERIENCE.** Any relevant education, training,
22 instruction, or other experience that an applicant has obtained in connection with
23 military service, as defined in s. 111.32 (12g), counts toward satisfying standards
24 related to education, training, instruction, or other experience for issuing a license
25 as a body piercer if the applicant demonstrates to the satisfaction of the department

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1 or local health department that the education, training, instruction, or other
2 experience that the applicant obtained in connection with his or her military service
3 is substantially equivalent to the education, training, instruction, or other
4 experience that is required for the issuance of a license for a body piercer.

5 **SECTION 15.** 252.241 (1) of the statutes is amended to read:

6 252.241 (1) Except as provided in sub. (1m), the department shall require each
7 applicant to provide the department with the applicant's social security number, if
8 the applicant is an individual, or the applicant's federal employer identification
9 number, if the applicant is not an individual, as a condition of issuing or renewing
10 a license under s. 252.23 ~~(2)~~ (3c) or ~~(4)(a)~~ (3g) or 252.24 ~~(2)~~ (3c) or ~~(4)(a)~~ (3g).

11 **SECTION 16.** 252.245 (9) of the statutes is amended to read:

12 252.245 (9) The department shall promulgate rules establishing state fees for
13 its costs related to setting standards under ss. 252.23 and 252.24 and monitoring and
14 evaluating the activities of, and providing education and training to, agent local
15 health departments. The department may not promulgate a rule under which a local
16 health department may charge an individual who is eligible for the veterans fee
17 waiver program under s. 45.44 a state fee to obtain a license under s. 252.23 ~~(3)~~ (3c)
18 or (3g) or 252.24 ~~(3)~~ (3c) or (3g). Agent local health departments shall include the
19 state fees in the license fees established under sub. (4), collect the state fees and
20 reimburse the department for the state fees collected. For tattooists or tattoo
21 establishments and for body piercers or body-piercing establishments, the state fee
22 may not exceed ~~20%~~ 20 percent of the license fees established under s. 252.23 (4) (a)
23 or 252.24 (4) (a).

24 **SECTION 17. Effective date.**

