

State of Wisconsin



1995 Assembly Bill 733

Date of enactment: **June 27, 1996**
Date of publication*: **July 10, 1996**

1995 WISCONSIN ACT 468

AN ACT to amend 20.435 (1) (gm); and to create 252.23, 252.24 and 252.245 of the statutes; relating to: regulation of tattooing and tattoo establishments and body piercing and body-piercing establishments by the department of health and family services or by local health departments, granting rule-making authority and making an appropriation.

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

SECTION 1. 20.435 (1) (gm) of the statutes, as affected by 1995 Wisconsin Act 27, section 816m, is amended to read:

20.435 (1) (gm) *Licensing, review and certifying activities.* The amounts in the schedule for the purposes specified in ss. 50.135, 50.49 (2) (b), 146.50 (8), 250.05 (6), 252.23, 252.24, 252.245, 254.176, 254.178, 254.20 (5) and (8), 254.31 to 254.39, 254.47, 254.61 to 254.89 and 255.08 (2), subch. IV of ch. 50 and ch. 150. All moneys received under ss. 50.135, 50.49 (2) (b), 50.93 (1) (c), 146.50 (8) (d), 150.13, 250.05 (6), 252.23 (4) (a), 252.24 (4) (a), 252.245 (9), 254.176, 254.178, 254.20 (5) and (8), 254.31 to 254.39, 254.47, 254.61 to 254.89 and 255.08 (2) (b) shall be credited to this appropriation.

SECTION 2. 252.23 of the statutes is created to read:

252.23 Regulation of tattooists. (1) DEFINITIONS.

In this section:

- (a) "Tattoo" has the meaning given in s. 948.70 (1) (b).
- (b) "Tattoo establishment" means the premises where a tattooist performs tattoos.
- (c) "Tattooist" means a person who tattoos another.

(2) DEPARTMENT; DUTY. The department shall provide uniform, statewide licensing and regulation of tattooists and uniform, statewide licensing and regulation of tattoo establishments under this section. The department shall inspect a tattoo establishment once before issuing a license for the tattoo establishment under this section and may make additional inspections that the department determines are necessary.

(3) LICENSE REQUIRED. Except as provided in sub. (5), no person may tattoo or attempt to tattoo another, designate or represent himself or herself as a tattooist or use or assume the title "tattooist" and no tattoo establishment may be operated unless the person and the establishment are licensed by the department under this section or by a local health department that is designated as the department's agent under s. 252.245.

(4) RULE MAKING. The department shall promulgate all of the following as rules:

(a) Standards and procedures, including fee payment to offset the cost of licensing tattooists and tattoo establishments, for the annual issuance of licenses as tattooists or as tattoo establishments to applicants under this section.

(b) Standards for the performance of tattoos by a licensed tattooist and for the maintenance of a licensed tat-

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

to establishment, which will promote safe and adequate care and treatment for individuals who receive tattoos and eliminate or greatly reduce the danger of exposure by these individuals to communicable disease or infection.

(5) EXCEPTION. This section does not apply to a dentist who is licensed under s. 447.03 (1) or to a physician who tattoos or offers to tattoo a person in the course of the dentist's or physician's professional practice.

SECTION 2m. 252.24 of the statutes is created to read:

252.24 Regulation of body piercing and body-piercing establishments. (1) DEFINITIONS. In this section:

(a) "Body piercer" means a person who performs body piercing on another.

(b) "Body piercing" means perforating any human body part or human tissue, except an ear, and placing a foreign object in the perforation in order to prevent the perforation from closing.

(c) "Body-piercing establishment" means the premises where a body piercer performs body piercing.

(2) DEPARTMENT; DUTY. The department shall provide uniform, statewide licensing and regulation of body piercers and uniform, statewide licensing and regulation of body-piercing establishments under this section. The department shall inspect a body-piercing establishment once before issuing a license for the body-piercing establishment under this section and may make additional inspections that the department determines are necessary.

(3) LICENSE REQUIRED. Except as provided in sub. (5), no person may pierce the body of or attempt to pierce the body of another, designate or represent himself or herself as a body piercer or use or assume the title "body piercer" unless the person is licensed under this section.

(4) RULE MAKING. The department shall promulgate all of the following as rules:

(a) Standards and procedures, including fee payment to offset the cost of licensing body piercers and body-piercing establishments, for the annual issuance of licenses as body piercers or as body-piercing establishments to applicants under this section.

(b) Standards for the performance of body piercing by a licensed body piercer and for the maintenance of a licensed body-piercing establishment, which will promote safe and adequate care and treatment for individuals who receive body piercing and eliminate or greatly reduce the danger of exposure by these individuals to communicable disease or infection.

(5) EXCEPTION. This section does not apply to a dentist who is licensed under s. 447.03 (1) or to a physician who pierces the body of or offers to pierce the body of a person in the course of the dentist's or physician's professional practice.

SECTION 2r. 252.245 of the statutes is created to read:

252.245 Agent status for local health departments. (1) In the administration and enforcement of ss. 252.23 and 252.24, the department may enter into a writ-

ten agreement with a local health department with a jurisdictional area that has a population greater than 5,000, which designates the local health department as the department's agent in issuing licenses to and making investigations or inspections of tattooists and tattoo establishments and body piercers and body-piercing establishments. In a jurisdictional area of a local health department without agent status, the department of health and family services may issue licenses, collect license fees established by rule under ss. 252.23 (4) (a) and 252.24 (4) (a) and make investigations or inspections of tattooists and tattoo establishments and body piercers and body-piercing establishments. If the department designates a local health department as its agent, the department or local health department may require no license for the same operations other than the license issued by the local health department under this subsection. If the designation is made and the services are furnished, the department shall reimburse the local health department furnishing the service at the rate of 80% of the net license fee per license per year issued in the jurisdictional area.

(2) A local health department designated as the department's agent under this section shall meet standards promulgated under ss. 252.23 (4) (a) and 252.24 (4) (a). The department shall annually evaluate the licensing, investigation and inspection program of each local health department granted agent status. If, at any time, a local health department designated as the department's agent fails to meet the standards, the department of health and family services may revoke its agent status.

(3) The department shall provide education and training to agents designated under this section to ensure uniformity in the enforcement of s. 252.23 or 252.24 and rules promulgated under s. 252.23 or 252.24

(4) Except as provided in sub. (4m), a local health department designated as the department's agent under this section shall establish and collect the license fee for each tattooist or tattoo establishment and for each body piercer or body-piercing establishment. The local health department may establish separate fees for preinspections of new tattoo or body-piercing establishments, for preinspections of existing establishments for which a person intends to be the new operator or for the issuance of duplicate licenses. No fee may exceed the local health department's reasonable costs of issuing licenses to, making investigations and inspections of, and providing education, training and technical assistance to the tattooists and tattoo establishments or body piercers and body-piercing establishments, plus the state fee established under sub. (9).

(4m) A local health department designated as the department's agent under this section may contract with the department of health and family services for the department of health and family services to collect fees and issue licenses under s. 252.23 or 252.24. The department

shall collect from the local health department the actual and reasonable cost of providing the services.

(5) If, under this section, a local health department becomes an agent or its agent status is discontinued during a licensee's license year, the department of health and family services and the local health department shall divide any license fee paid by the licensee for that license year according to the proportions of the license year occurring before and after the local health department is designated as an agent or the agent status is discontinued. No additional fee may be required during the license year due to the change in agent status.

(6) A village, city or county may enact ordinances and a local board of health may adopt regulations regarding the licensees and premises for which the local health department is the designated agent under this section, which are stricter than s. 252.23 or 252.24 or rules promulgated by the department of health and family services under s. 252.23 or 252.24. No such provision may conflict with s. 252.23 or 252.24 or with department rules.

(7) This section does not limit the authority of the department to inspect establishments in jurisdictional areas of local health departments that are designated as agents if it inspects in response to an emergency, for the purpose of monitoring and evaluating the local health department's licensing, inspection and enforcement program or at the request of the local health department.

(8) The department shall hold a hearing under ch. 227 if, in lieu of proceeding under ch. 68, any interested per-

son in the jurisdictional area of a local health department that is designated as the department's agent under this section appeals to the department of health and family services alleging that a license fee for a tattooist or tattooist establishment or for a body piercer or body-piercing establishment exceeds the license issuer's reasonable costs of issuing licenses to, making investigations and inspections of, and providing education, training and technical assistance to the tattooist or tattooist establishment or to the body piercer or body-piercing establishment.

(9) The department shall promulgate rules establishing state fees for its costs related to setting standards under ss. 252.23 and 252.24 and monitoring and evaluating the activities of, and providing education and training to, agent local health departments. Agent local health departments shall include the state fees in the license fees established under sub. (4), collect the state fees and reimburse the department for the state fees collected. For tattooists or tattoo establishments and for body piercers or body-piercing establishments, the state fee may not exceed 20% of the license fees established under s. 252.23 (4) (a) or 252.24 (4) (a).

SECTION 3. Effective dates. This act takes effect on October 1, 1996, except as follows:

(1) The treatment of sections 252.23 (4), 252.24 (4) and 252.245 (9) of the statutes takes effect on the day after publication.