

1 State of Arkansas As Engrossed: S2/27/13 H3/22/13  
2 89th General Assembly **A Bill**  
3 Regular Session, 2013

SENATE BILL 388

4  
5 By: Senator Irvin  
6

7 **For An Act To Be Entitled**

8 AN ACT TO AMEND VARIOUS PROVISIONS CONCERNING BODY  
9 ARTISTS; TO CLARIFY THE NATURE AND PENALTIES FOR  
10 VIOLATIONS OF LAWS AND RULES REGARDING BODY ARTISTS;  
11 AND FOR OTHER PURPOSES.  
12

13  
14 **Subtitle**

15 TO AMEND VARIOUS PROVISIONS CONCERNING  
16 BODY ARTISTS AND TO CLARIFY THE NATURE  
17 AND PENALTIES FOR VIOLATIONS OF LAWS AND  
18 RULES REGARDING BODY ARTISTS.  
19

20  
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. Arkansas Code §§ 20-27-1501 through 20-27-1503 are amended  
24 to read as follows:

25 20-27-1501. Definitions.

26 As used in this subchapter:

27 (1) "Artist" means any person other than a licensed physician  
28 who performs body art on a human;

29 (2) "Artist in training" means a person who:

30 (A) Is in training under the supervision of an artist  
31 trainer or a physician; and

32 (B) Shall not independently perform body art;

33 (3) "Artist trainer" means an artist who:

34 (A) ~~Is Has been~~ licensed by the Department of Health as an  
35 artist for at least five (5) years in the specified field of body art in  
36 which he or she will offer training;

1 (B) Has worked in a body art establishment licensed by the  
2 department for at least three (3) years and been in compliance with  
3 department rules governing body artists;

4 (C) Has completed the course required under § 20-27-1506;  
5 and

6 (D) Is a registered instructor for the specified field of  
7 body art with the State Board of Private Career Education;

8 (4) "Body art" means procedures that include:

9 (A) Tattooing;

10 (B) Body piercing;

11 (C) Branding; or

12 (D) Permanent cosmetics;

13 (5)(A) "Body piercing" and "body piercing procedure" means  
mean

14 the creation of an opening in the body of a human being for the purpose of  
15 inserting jewelry or other decoration, the puncturing of a part of the body  
16 of a live human being to create a hole for ornamentation or decoration, or a  
17 single-point perforation of a body part to insert an anchor with a single  
18 stud protruding from or flush with the skin.

19 (B) "Body piercing" or "body piercing procedure" shall  
20 not

21 include piercing an ~~ear~~earlobe with a presterilized disposable, single-use  
22 stud or solid needle that is applied using a mechanical device to force the  
23 needle or stud through the ~~ear~~earlobe;

24 (6) "Branding" means a permanent mark made on human tissue by  
25 burning with a hot iron or other instrument;

26 (7) "Critical item" means a n aspect of operation or conditi  
on of

27 a facility or equipment that constitutes the greatest hazard to health and  
safety, including imminent health hazards;

28 ~~(7)~~(8) "Establishment" means any place or facility:

29 (A) Where body art is performed; and

30 (B) That has a body artist licensed in Arkansas on staff;

31 ~~(8)~~(9) "Guest artist" means ~~a body~~an artist from a state other  
32 than Arkansas or a country other than the United States who:

33 (A) ~~holds~~Holds a license from the body art regulatory  
34 board or agency, if in existence, in that state or country; or

35 (B) If an artist license is not available in the guest  
36 artist's state or country, can submit to the department of evidence of



1 professional experience, employment, and education including:

2 (i) Proof of blood-borne pathogen certification; and

3 (ii) Proof of employment in a licensed body art

4 facility for at least two (2) years;

5 (10) "Instrument" means equipment used during body art,  
6 including without limitation:

7 (A) Forceps;

8 (B) Hemostats;

9 (C) Needles;

10 (D) Permanent cosmetic needles and tips;

11 (E) Receiving tubes; and

12 (F) Tattoo barrels and tubes;

13 ~~(9)~~(11) "Permanent cosmetics" and "permanent cosmetic procedure"

14 ~~means-mean~~ the application of permanent or semipermanent pigmentation by the  
15 penetration of the skin with a needle or instrument to:

16 (A) The face for cosmetic purposes; or

17 (B) Any part of the body for scar coverage or other  
18 corrective purposes; and

19 (12) "Repigmentation" means recoloration of the skin sought  
20 to:

21 (A) Dermabrasion, chemical peels, removal or resolution of  
22 birthmarks, vitiligo, or other skin conditions that result in the loss of  
23 melanin to the skin;

24 (B) Scarring caused by surgical procedures, including  
25 without limitation face lifts, mole or wart removal, cauterization, and other  
26 similar procedures;

27 (C) Mastectomy, including recreation of an areola or  
28 nipple; or

29 (D) Blotchy pigmentation.

30 (13) "Sponsor" means an individual or business entity, including  
31 an event coordinator or manager, responsible for the organization of a  
32 convention, trade show, or other temporary event that includes a body art  
33 demonstration booth; and

34 ~~(10)~~(A)(14)(A) "Tattooing" and "tattoo procedure" means-mean  
35 any method of placing designs, letters, scrolls, figures, symbols, or any  
36 other marks upon or under the skin by introducing pigments or by the



1 production of scars to form indelible marks with the aid of needles or other  
2 instruments.

3 (B) "Tattooing" and "tattoo procedure" does do not  
4 include permanent cosmetics.

5

6 20-27-1502. Unlawful to perform body art on a person under eighteen  
7 years of age — Documentation and consent.

8 (a)(1) A person under eighteen (18) years of age shall not undergo  
9 body art unless:

10 ~~(1)(A)~~ Written consent is given by the person's parent or  
11 legal guardian; ~~and~~

12 ~~(2)(A)(B)~~ The parent or legal guardian is present during  
13 the procedure;

14 ~~(B)~~ ~~When providing written consent, the parent or legal~~  
15 ~~guardian shall produce photo-bearing identification and attest in writing~~  
16 ~~that the individual is the person's parent or legal guardian.~~

17 (C) The person to undergo body art and the parent or legal  
18 guardian each provide a valid government-issued form of identification that  
19 includes a name, date of birth, and photo; and

20 (D) The parent or legal guardian presents proof of  
21 guardianship that matches the identification given, including without  
22 limitation a birth certificate or a court or state record for adoption, legal  
23 guardianship, emancipation, or a marriage license.

24 (2) The artist shall retain for at least two (2) years a copy of  
25 a photo identification and a proof of guardianship presented under  
26 subdivision (a)(1) of this section.

27 (b) A person shall not perform body art on a person under sixteen (16)  
28 years of age, regardless of parental consent, except:

29 (1) When authorized or prescribed by a physician's statement  
30 exclusively for repigmentation; or

31 (2) When piercing the earlobe.

32 (c) It is unlawful to perform body art on the nipple or genitalia of a  
33 person under eighteen (18) years of age regardless of parental consent,  
34 except when authorized or prescribed by a physician's statement excl  
35 usively  
36 for repigmentation.

(d) It is unlawful to perform branding on a person under the age of

1 eighteen (18) years of age regardless of parental consent.

2 ~~(b)(e)~~ Regardless of age, the person receiving the body art shall  
3 attest to the fact that he or she is not under the influence of drugs or  
4 alcohol.

5 ~~(e)(f)~~ Printed and verbal instructions on the care of the skin and the  
6 body art shall be given to each person after the procedure, and a copy of the  
7 instructions shall be posted in a conspicuous place in the body art  
8 establishment.

9 ~~(d)(4)(g)(1)(A)~~ In addition to the attestations required in  
10 subsections (a) and ~~(b)(e)~~ of this section, records shall be kept ~~of the~~  
11 ~~names~~ of all persons receiving body art and of the parents or guardians  
12 giving consent under the rules promulgated by the State Board of Health to  
13 implement this subchapter.

14 (B) If the person to undergo body art is under eighteen  
15 (18) years of age, the printed legal name and signature of the parent or  
16 legal guardian.

17 (2) All records shall be retained for at least two (2) years  
18 from the last date recorded in the bound book.

19 ~~(2)(3)~~ All required signatures shall be in ink, and required  
20 records shall be available at a reasonable time for examination by the  
21 Department of Health and by local health officials.

22 ~~(e)(4)(f)(1)~~ Except as provided in ~~subsection (a)~~ subsections (a)-(c)  
23 of this section, it is unlawful to perform body art on a person under  
24 eighteen (18) years of age, and any person who pleads guilty or nolo  
25 contendere to or is found guilty of a violation of this subdivision  
26 ~~(e)(4)(f)(1)~~ is guilty of a ~~Class C~~ Class A misdemeanor.

27 (2) Any person who falsely claims to be the minor's parent or  
28 legal guardian for the purpose of obtaining body art for a person under  
29 eighteen (18) years of age shall be guilty of a ~~Class A misdemeanor~~ Class D  
30 felony.

31 (3) It is not a defense to a criminal prosecution under  
32 subdivision (f)(1) of this section that at the time of the offense, the  
33 person who received the body art possessed a letter of consent from the  
34 person's parent or legal guardian ~~if the letter was forged or if a person~~  
35 ~~falsely assumed the identity of the minor's parent or legal guardian.~~

36 ~~(f)(4)(g)(1)~~ It is unlawful to perform body art ~~on any person under~~

1 ~~eighteen (18) years of age~~ in any unlicensed facility.

2 (2) A person who pleads guilty or nolo contendere to or is found  
3 guilty of a violation of subdivision ~~(f)(4)~~(g)(1) of this section is guilty  
4 of a Class D felony.

5 (3) A fine collected under this section, less court fees, shall  
6 be allocated as follows:

7 (A) Fifty percent (50%) to the State of Arkansas;

8 (B) Twenty-five percent (25%) to the city or county that  
9 levied and collected the fine; and

10 (C) Twenty-five percent (25%) to be deposited into the  
11 State Treasury, credited to the Public Health Fund, and used exclusively for  
12 the Body Art Program of the department.

13

14 20-27-1503. Department of Health to license, regulate, and inspect for  
15 health hazards.

16 (a)(1) Body art establishments which and artists who perform body art  
17 shall be licensed by the Department of Health.

18 (2) A body art training facility shall be licensed by the  
19 department as an establishment and by the State Board of Private Career  
20 Education as an approved body art training facility.

21 (3) An artist from a state other than Arkansas or a country  
22 outside of the United States who holds a license from the body art regulatory  
23 board or agency in that state or country may submit an application for  
24 qualifications review by the department to determine eligibility for a body  
25 art license based upon criteria established by the department.

26 ~~(2)(4)~~ The business premises, equipment, procedures, techniques,  
27 and conditions of those businesses shall be subject to ~~periodic~~at least one  
28 (1) inspection by the department per year.

29 (b)(1) The department may adopt appropriate rules regarding the  
30 artists, premises, equipment, procedures, techniques, and conditions of  
31 establishments which perform procedures subject to this subchapter to assure  
32 that the premises, equipment, procedures, techniques, and conditions are  
33 aseptic and do not constitute a health hazard.

34 (2) Any rule affecting body art establishments in effect on  
35 August 13, ~~2004-2013~~, shall remain in effect until the State Board of Health  
36 adopts rules pursuant to this subchapter.

1 (c) Applicants for a license shall file applications upon forms  
2 prescribed by the department.

3 (d) A license shall be issued only for the premises and persons in the  
4 application and shall not be transferable.

5 (e)(1)(A) The department shall levy and collect an annual fee of one  
6 hundred fifty dollars (\$150) per facility for issuance of a license to an  
7 establishment that performs body art.

8 (B) The department shall levy and collect an annual fee of  
9 one hundred dollars (\$100) per artist for issuance of a license to an artist  
10 who performs body art.

11 (2)(A) The department shall collect a one-time fee of five  
12 hundred dollars (\$500) per artist licensed in a state other than Arkansas or  
13 a country other than the United States who applies for qualifications review  
14 by the department.

15 (B) The fee for written and practical exams under § 20-27-  
16 1508 is not required for an applicant under subdivision (e)(2)(A) of this  
17 section for exams taken to complete requirements established by the  
18 department.

19 (C) Upon satisfactory completion of the requirements by  
20 the applicant and approval of qualifications established by the department, a  
21 body artist license shall be issued to an applicant under subdivision  
22 (e)(2)(A) of this section.

23 (D) The department shall collect the annual artist fee of  
24 one hundred dollars (\$100) after the issuance of a license under subdivision  
25 (e)(2)(C) of this section.

26 ~~(2)(3)~~ The annual fee for an artist or for an establishment  
27 shall be based upon the calendar year, January 1 through December 31, with  
28 fees for any given year due by December 31 of the previous year.

29 ~~(3)(4)~~ If the annual fee for a licensed establishment has not  
30 been paid by March 1 of the calendar year, the establishment shall be closed  
31 until a new license has been issued by the department and the annual fee has  
32 been paid.

33 ~~(4)(A)(5)(A)~~ If the annual fee for a licensed artist has not  
34 been paid by March 1 of the calendar year, the artist shall have his or her  
35 license ~~revoked~~ suspended for ninety (90) days.

36 (B) If an artist has his or her license ~~revoked~~ suspended,

1 he or she shall ~~be retested and complete a new residency as an artist in~~  
2 ~~training under a licensed artist~~ before a license may be reissued within  
3 ninety (90) days after the suspension:

4 (i) Pay a reinstatement fee of one hundred dollars  
5 (\$100) and pay all overdue licensing fees;

6 (ii) Complete a written exam with the department and  
7 a practical exam in the studio in which the artist is licensed; and

8 (iii) Meet current requirements established by the  
9 department for artists.

10 (C) If an artist whose license is suspended has not met  
11 the requirements under subdivision (e)(5)(B) within ninety (90) days after  
12 the suspension, the artist may apply for qualification review.

13 ~~(5)(6)~~ In addition to the penalty provisions found in this  
14 subsection, any studio or business owner operating without a current license  
15 is ~~subject to the penalties and fines allowed by § 20-7-101~~ commits a Class D  
16 felony.

17 (f) All fees levied and collected under this subchapter are declared  
18 to be special revenues and shall be deposited into the State Treasury, there  
19 to be credited to the Public Health Fund to be used exclusively for the  
20 ~~Tattoo and Piercing Body Art~~ Program of the department.

21 (g) Subject to any rules as may be implemented by the Chief Fiscal  
22 Officer of the State, the disbursing officer for the department may transfer  
23 all unexpended funds relative to the health facility services that pertain to  
24 fees collected under this subchapter, as certified by the Chief Fiscal  
25 Officer of the State, to be carried forward and made available for  
26 expenditures for the same purpose for any following fiscal year.

27  
28 SECTION 2. Arkansas Code §§ 20-27-1506 through 20-27-1509 are amended  
29 to read as follows:

30 20-27-1506. Blood-borne pathogens course.

31 (a)(1) Each artist, artist trainer and artist in training shall  
32 complete a Occupational Safety and Health Administration blood-borne  
33 pathogens course training approved by the Department of Health on or before  
34 December 1, 2014.

35 (2) An approved online course may be used to satisfy the  
36 requirement under subdivision (a)(1) of this section.

1       ~~(2)(b)~~ Each artist trainer shall complete the course before training  
2 any artist in training.

3       ~~(3)(c)~~ Each artist in training shall complete the course before  
4 applying for the examination required under § 20-27-1508.

5       (d)(1) After completion of a first Occupational Safety and Health  
6 Administration blood-borne pathogens training approved by the department, an  
7 artist, an artist trainer, and an artist in training shall renew the training  
8 annually.

9       (2) A copy of each annual certification under subdivision (d)(1)  
10 of this section shall be submitted to the department with the license  
11 renewal.

12       ~~(b)(1)(A) The department shall promulgate rules to establish standards~~  
13 ~~for the blood-borne pathogens course required under this section.~~

14       ~~(B) The course shall require a minimum of two (2) hours of~~  
15 ~~direct instruction.~~

16       ~~(2) The course may be taught by providers approved by the~~  
17 ~~department, including without limitation:~~

18               ~~(A) The American Red Cross;~~

19               ~~(B) Any nationally recognized body art organization;~~

20               ~~(C) Any institution of higher learning; and~~

21               ~~(D) Any other individual or group approved by the~~

22 ~~department.~~

23  
24       20-27-1507. Education of artist in training.

25       (a) An artist trainer shall be a registered instructor in a school  
26 licensed by the State Board of Private Career Education.

27       (b) The State Board shall develop standards to determine:

28               (1) The maximum number of artists in training in a training  
29 facility at one time; and

30               (2) The length of the program in hours and across a range of  
31 months.

32       ~~(b)(4)(A)(c)(1)(A) During the artist training in the fields of tattoo,~~  
33 ~~body piercing, or permanent cosmetics, each artist in training shall complete~~  
34 ~~not less than three hundred seventy-five (375) hours of supervised body art~~  
35 ~~work and classroom instruction in a period not less than six (6) months or~~  
36 ~~more than twenty-four (24) months in an establishment licensed under § 20-27-~~

1 1503 and § 6-51-601 et seq.

2 (B) During the artist training in the field of branding,  
3 each artist in training shall complete not less than three hundred seventy-  
4 five (375) clock hours of supervised body art work and classroom instruction  
5 in a period not less than six (6) months or more than twenty-four (24) months  
6 in an establishment licensed under § 20-27-1503 and § 6-51-601 et seq.

7 ~~(B)~~(C) Additional fields of body art training may be added  
8 by completing not less than two hundred fifty (250) clock hours of technical  
9 and procedural training in each of the other fields of body art in which an  
10 artist in training is to be licensed.

11 (D) An artist in training studying multiple fields of body  
12 art at the same time shall complete the total clock hours of all fields in  
13 not less than twelve (12) months or more than twenty-four (24) months.

14 (2)(A) The artist trainer shall maintain a training log of the  
15 clock hours completed by the artist in training on forms approved by the  
16 State Board of Private Career Education.

17 (B) The training log shall include without limitation a  
18 record of:

19 (i) Hours of both theory and practical education;  
20 (ii) The procedures observed and completed; and  
21 (iii) A list of resources used for training.

22 (C) The artist in training shall keep available for  
23 inspection a bound record book that is separate from the record book of  
24 another artist or artist in training.

25 ~~(B)~~(D) The completed training log shall be submitted to  
26 the Department of Health at the time of the practical examination under § 20-  
27 27-1508.

28 (d) An artist trainer may offer training only in the area in which the  
29 artist trainer holds a current license from the department.

30 (e) The state board shall adopt a minimum curriculum for each area of  
31 body art training that shall be followed by all artist trainers, artists in  
32 training, and body art training facilities.

33

34 20-27-1508. Examination — Fee.

35 (a)(1)(A) Each artist in training seeking licensure as an artist under  
36 the rules of the Department of Health shall take a written examination ~~and a~~

1 ~~practical examination~~ prepared or approved by the department before beginning  
2 training.

3 (B) Upon completion of the hours required under § 20-27-  
4 1507, a practical examination shall be conducted by the department in each  
5 field of training for which the artist in training is seeking licensure.

6 (2) Until an artist in training receives a passing grade on ~~both~~  
7 ~~the written examination and the practical examination~~, no artist in training  
8 may:

9 (A) Be licensed as an artist;

10 (B) Hold himself or herself out as a licensed artist; or

11 (C) Independently perform a body art procedure without the  
12 supervision of a body art trainer.

13 (b) The department shall levy and collect a nonrefundable fee of fifty  
14 dollars (\$50.00) from each artist in training who applies to take the written  
15 and practical examinations required under this section for licensure as an  
16 artist.

17 (c) A fee collected under this section shall be deposited into the  
18 State Treasury, credited to the Public Health Fund, and used exclusively for  
19 the Body Art Program of the department.

20

21 20-27-1509. Temporary demonstration license.

22 (a) The Department of Health may issue a temporary demonstration  
23 license to an artist or establishment or to a supplier of materials for body  
24 art for:

25 (1) Educational purposes where body art is performed;

26 (2) Trade shows where body art is performed;

27 (3) Demonstrations of body art products or procedures; and

28 (4) An appearance as a guest artist.

29 (b) A temporary demonstration license shall be valid for no more than  
30 fourteen (14) consecutive calendar days.

31 ~~(c) The department shall levy and collect a fee of one hundred fifty~~  
32 ~~dollars (\$150) for each temporary demonstration license.~~

33 (c)(1) The sponsor of a body art event for an educational purpose, a  
34 trade show, a demonstration, or a combination of an educational purpose, a  
35 trade show, a demonstration of body art procedures where body art is  
36 performed shall obtain the necessary permits to conduct business in the

1 jurisdiction in which the event will be held, including without limitation a  
2 permit issued by the department.

3 (2) The department shall collect a nonrefundable sponsor fee of  
4 fifty dollars (\$50.00) per artist who performs body art at an event, not to  
5 exceed two thousand dollars (\$2,000) per event.

6 (3) In addition to the penalties under § 20-27-1502, a sponsor  
7 who violates this subsection is subject to closure of the temporary body art  
8 event and a penalty not to exceed three (3) times the cost of the permit.

9 (d) The department shall levy and collect a nonrefundable fee of fifty  
10 dollars (\$50.00) from a guest artist for a temporary demonstration license.

11 ~~(d)(1)(e)(1)~~ An application for a temporary demonstration license  
12 shall be submitted to the department not less than forty-five (45) days prior  
13 to the event or appearance as a guest artist for educational purposes, trade  
14 show, or demonstration of body art products and procedures where body art is  
15 performed.

16 (2) An application for a temporary demonstration license shall  
17 be submitted to the department not less than seven (7) days before the  
18 appearance of a guest artist.

19 ~~(2)(3)~~ An artist shall provide evidence of completion of a  
20 Occupational Safety and Health Administration blood-borne pathogens course  
21 training with the application.

22 ~~(e)(1)(f)(1)~~ A person applying for a temporary demonstration license  
23 to appear as a guest artist shall provide documentation of licensure as an  
24 artist in another state or country or employment history in a studio licensed  
25 by the regulatory board or agency in another state or country before the  
26 temporary demonstration license may be granted.

27 (2) The establishment where the guest artist is appearing shall  
28 have a licensed body artist on its staff.

29 (3) A guest artist may be issued a temporary demonstration  
30 license to appear as a guest artist no more than one (1) time every six (6)  
31 three (3) months.

32 (g) A fee levied and collected under this section is special revenue  
33 and shall be deposited into the State Treasury, to be credited to the Public  
34 Health Fund to be used exclusively for the Body Art Program of the  
35 department.

36

1 SECTION 3. Arkansas Code Title 20, Chapter 27, Subchapter 15, is  
2 amended to add additional sections to read as follows:

3 20-27-1510. Critical items for closure of a body art establishment.

4 (a)(1) The Department of Health shall create and publish a list of  
5 critical items for closure of an establishment.

6 (2) The department shall list the prohibitions under § 20-27-  
7 1511 as critical items for closure.

8 (b)(1) An establishment that violates a critical item from the list  
9 established under subsection (a) of this section is subject to immediate  
10 closure by the department.

11 (2) An establishment closed under subdivision (b)(1) of this  
12 section shall remain closed until:

13 (A) Fines or penalties, or both, that are assessed under  
14 this subchapter have been paid; and

15 (B) Upon inspection by the department, the establishment  
16 is no longer in violation of a critical item.

17  
18 20-27-1511. Prohibitions.

19 (a) Body art is prohibited:

20 (1) On a person who is inebriated or appears to be incapacitated  
21 by the use of alcohol or drugs;

22 (2) On a person who shows signs of recent intravenous drug use;

23 (3) On an area with sunburn, open lesions, rashes, or wounds;

24 (4) With the use of a product or ink banned or restricted by the  
25 United States Food and Drug Administration;

26 (5) In a procedure area that is not physically and permanently  
27 separated from beauty facilities, such as hair and nail services; and

28 (6) On an animal in a facility licensed for the application of  
29 body art on human beings;

30 (b) A piercing gun shall be used only to pierce an earlobe.

31 (c) An person shall not:

32 (1) Perform a piercing with a manually loaded spring operated  
33 piercing device;

34 (2) Pierce an earlobe with a piercing gun that does not use a  
35 pre-sterilized encapsulated stud and clasp system; or

36 (3)(A) An artist shall not use jewelry for initial piercing that

1 is not certified by ASTM International or the International Organization for  
2 Standardization, or both, as an implant-grade material except for specified  
3 types of glass, gold, and niobium as approved by the rules established by the  
4 Department of Health.

5 (B) An artist shall maintain on file for inspection a Mill  
6 Test Certificate confirming certification by ASTM International or the  
7 International Organization for Standardization, or both, for steel and  
8 titanium jewelry for initial piercing.

9 (d)(1) A person shall not sell a body piercing needle, tattoo needle,  
10 or body art instrument, or a combination of these, including without  
11 limitation tattoo ink, barrel, drip, and tattoo machine to a person within  
12 this state who is not licensed as an artist by the department.

13 (2)(A) A violation of subdivision (d)(1) of this section is a  
14 Class A misdemeanor.

15 (B) Each violation of subdivision (d)(1) of this section  
16 is a separate offense.

17 (e)(1) Possession of a body piercing needle, tattoo needle, or body  
18 art instrument, or a combination of these, including without limitation  
19 tattoo ink, barrel, drip, and tattoo machine by a person within this state  
20 who is not licensed as an artist by the department is prohibited.

21 (2)(A) A violation of subdivision (e)(1) of this section is a  
22 Class A misdemeanor.

23 (B) Each violation of subdivision (e)(1) of this section  
24 is a separate offense.

25 (f) A fine collected under this section, less court fees, shall be  
26 allocated as follows:

27 (1) Fifty percent (50%) to the State of Arkansas;

28 (2) Twenty-five percent (25%) to the city or county that levied  
29 and collected the fine; and

30 (3) Twenty-five percent (25%) to be deposited into the State  
31 Treasury, credited to the Public Health Fund, and used exclusively for the  
32 Body Art Program of the department.

33  
34 20-27-1512. Penalties.

35 (a) An artist who violates this subchapter or rules adopted by the  
36 State Board of Health pertaining to body art commits a misdemeanor punishable

1 by a fine of not less than one thousand dollars (\$1,000) and not more than  
2 five thousand dollars (\$5,000) for each offense.

3 (b) After notice of a violation has been given, each violation of this  
4 subchapter constitutes a separate offense unless another penalty is  
5 specifically provided in this subchapter.

6

7

/s/Irvin

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APPROVED: 04/04/2013

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1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

As Engrossed: H3/22/13  
**A Bill**

SENATE BILL 387

5 By: Senator Irvin  
6 *By: Representative Ferguson*  
7

**For An Act To Be Entitled**

9 AN ACT TO LIMIT BODY ART PROCEDURES; AND FOR OTHER  
10 PURPOSES.  
11

**Subtitle**

12 TO LIMIT BODY ART PROCEDURES.  
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16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 SECTION 1. Arkansas Code § 20-27-1501 is amended to read as follows:  
20 20-27-1501. Definitions.

21 As used in this subchapter:

22 (1) "Artist" means any person other than a licensed physician  
23 who performs body art on a human;

24 (2) "Artist in training" means a person who:

25 (A) Is in training under the supervision of an artist  
26 trainer or a physician; and

27 (B) Shall not independently perform body art;

28 (3) "Artist trainer" means an artist who:

29 (A) Is licensed by the Department of Health;

30 (B) Has worked in a body art establishment licensed by the  
31 department for at least ~~three (3)~~ five (5) years and been in compliance with  
32 department rules governing body artists;

33 (C) Has completed the course required under § 20-27-1506;  
34 and

35 (D) Is a registered instructor with the State Board of  
36 Private Career Education;

1 (4) "Body art" means procedures that include:

- 2 (A) Tattooing;  
 3 (B) Body piercing;  
 4 (C) Branding; ~~or~~  
 5 (D) Permanent cosmetics; or  
 6 (E) Scarification;

7 (5)(A) "~~Body piercing~~" means ~~the creation of an opening in the~~  
 8 ~~body of a human being for the purpose of inserting jewelry or other~~  
 9 ~~decoration~~ the puncturing of a part of the body of a live human being to  
 10 create a hole for ornamentation or decoration or a single-point perforation  
 11 of a body part to insert an anchor with a single stud protruding or flush  
 12 with the skin.

13 (B) "Body piercing" shall not include piercing an ear lobe  
 14 with a presterilized, disposable, single-use stud or solid needle that is  
 15 applied using a mechanical device to force the needle or stud through the ear  
 16 lobe;

17 (6) "Branding" means a permanent mark made on human tissue by  
 18 burning with a hot iron or other instrument;

19 (7) "Subdermal implanting" means the insertion of an object  
 20 under the skin of a live human being for ornamentation or decoration;

21 ~~(7)~~(8) "Establishment" means any place or facility:

- 22 (A) Where body art is performed; and  
 23 (B) That has a body artist licensed in Arkansas on staff;

24 ~~(8)~~(9) "Guest artist" means a body artist from a state other  
 25 than Arkansas or a country other than the United States who holds a license  
 26 from the body art regulatory board or agency in that state or country;

27 ~~(9)~~(10) "Permanent cosmetics" means the application of permanent  
 28 or semipermanent pigmentation by the penetration of the skin with a needle or  
 29 instrument to:

- 30 (A) The face for cosmetic purposes; or  
 31 (B) Any part of the body for scar coverage or other  
 32 corrective purposes;

33 (11) "Scarification" means injury of the skin involving  
 34 scratching, etching, or cutting of designs to produce a scar on a human being  
 35 for ornamentation or decoration; and

36 ~~(10)(A)~~(12)(A) "Tattooing" means any method of placing designs,

1 letters, scrolls, figures, symbols, or any other marks upon or under the skin  
2 by introducing pigments or by the production of scars to form indelible marks  
3 with the aid of needles or other instruments.

4 (B) "Tattooing" does not include permanent cosmetics.

5  
6 SECTION 2. Arkansas Code Title 20, Chapter 27, Subchapter 15, is  
7 amended to add an additional section to read as follows:

8 20-27-1510. Prohibited practice.

9 An artist licensed by the Department of Health shall not perform or  
10 attempt to perform the insertion of a subdermal implant.

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12 /s/Irvin

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15 APPROVED: 04/04/2013  
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