

## Legislation Text

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**File #:** 47318, **Version:** 1

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### Fiscal Note

The proposed ordinance change removes the requirement to license ear piercing establishments and adds requirements for Tattoo and Body Art establishments to pay reinspection fees. The net effect of these changes on revenue received by Public Health is expected to be minimal.

### Title

Amending Section 7.15 of the Madison General Ordinances to remove the requirement on Public Health Madison Dane County to license ear piercers, to amend various definitions and to create a reinspection fee for tattoo and body piercing establishments.

### Body

DRAFTER'S ANALYSIS: Section 7.15, MGO, is amended in several sections to remove the requirement on Public Health Madison Dane County to license ear piercers. Section 7.15(2) is amended to make definitions consistent with State administrative code and Dane County general ordinances. Sec. 7.15(6)(d) is added to create a reinspection fee for tattoo and body piercing establishments. State Statute and Administrative Code references in Chapter 7.15 are changed to reflect changed code references at the state level.

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The Common Council of the City of Madison do hereby ordain as follows:

Section 7.15 entitled "Regulation of Tattooing and Body Piercing" of the Madison General Ordinances is amended to read as follows:

### **"7.15 REGULATION OF TATTOOING AND BODY-PIERCING.**

(1) Adoption by Reference. Wis. Admin. Code. ch. SPS 221, and Wis. Stats. §§ 463.10(4) and 463.12(4), and all subsequent amendments, additions and recodifications thereto are hereby adopted by reference. It is the intent of the City that where there may be conflict between this subsection and the remainder of this section that the most stringent provision shall apply.

(2) Definitions. Words and phrases in this section have the meanings designated in Wis. Admin. Code ch. SPS 221, unless the context clearly indicates a different meaning with the following additions or modifications for use in this section only:

"Body piercer" means a person who performs body piercing on another person at that person's request.

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

"Department" means Public Health Madison and Dane County.

~~"Ear piercer" means a person who performs ear piercing on a patron, at that patron's request.~~

~~"Ear piercing" means to perforate an ear and to place a foreign object in the perforation to prevent the perforation from closing.~~

"Establishment" means an entity comprised of one or more practitioners, organized as a corporation, limited liability company, partnership, sole practitioner or other association operating in a single building, structure, area or location at which tattoos are applied, or body ~~or~~ ear piercing is performed or all of the above . The establishment area shall be separately maintained from other business activities.

"Patron" means a person receiving a tattoo, or body ~~or~~ ear pierce.

"Person" means an individual, partnership, limited liability company, corporation, association, or other entity.

~~"Piercing gun" means a hand-held tool, which is able to be disinfected and is manufactured exclusively for piercing the ear.~~

~~"Piercing stud" means a single-use prepackaged sterilized ear piercing stud.~~

"Special event" means a show, bazaar, fair or other occurrence lasting up to a maximum of seven (7) consecutive days at which a collection of establishments practice their art in a single location, whether public or private premises.

"Tattoo" means, as a noun, an indelible mark or design on a person created by inserting pigment under the surface of the person's skin by a needle prick or other means of puncture.

~~"Temporary combined establishment" means a temporary establishment at which both tattooing and body piercing are performed.~~

~~"Temporary establishment" means an establishment operating at a special event.~~

"Temporary establishment" means a single building, structure, area or location where a tattooist or body piercer performs tattooing or body piercing for a maximum of seven (7) days per event.

- (3) ~~When ear piercing with a needle, tattooing or body piercing, the tattooist or piercer must comply with the requirements found in Wis. Admin. Code ch. SPS 221. Ear piercing conducted with a piercing gun shall be performed in accordance with the following procedures:~~
- (a) ~~Instruments.~~ Any portion of the piercing gun that comes into contact with the patron's skin must be disinfected prior to each use. All soiled instruments shall be stored separately from disinfected instruments.
  - (b) ~~Patrons.~~ An ear piercer may not pierce an ear without first obtaining the patron's signature on an informed consent form approved by the department. A patron under the age of 18 may not be ear-pierced unless an informed consent form has been signed by the patron's parent or legal guardian in the presence of the practitioner. An ear piercer may not pierce a patron's ear if that patron appears to be under the influence of alcohol or a mind-altering drug or has evidence of skin lesions or skin infections on the ear that is to be pierced.
  - (c) ~~Preparation and Care of Ear.~~ Before beginning a procedure, the ear piercer shall clean the area of the ear that is being pierced and apply an antiseptic solution. The solution shall be applied with cotton, gauze or single-use toweling, which shall then be properly disposed. After completing a procedure the ear piercer shall provide the patron with both oral and written instructions on the care of the pierce.
  - (d) ~~Environment.~~ Floors shall be constructed of smooth, durable and non-porous material and shall be maintained in clean condition and in good repair. Carpeting is prohibited. The establishments shall provide access to public toilets and handwashing facilities. Easily cleanable waste containers with non-absorbent, durable plastic liners shall be used for disposal of all tissues, towels and similar items used on patrons. Equipment shall be stored in closed cabinets exclusively used for that purpose. Establishments shall be maintained in a clean, sanitary and vermin-free condition. No smoking or consumption of food or drink is permitted in the area where ear piercing is performed.
  - (e) ~~Personnel.~~ No person with an exposed rash, skin lesion, boil or who is under the influence of alcohol or a mind-altering drug may engage in the practice of ear piercing. The ear piercer shall conform to good hygiene practices during procedures, this includes but is not limited to:
    - 1. Thoroughly wash his/her hands and the exposed portions of his/her arms with dispensed soap and tempered water before and after each ear piercing.
    - 2. Wear clean, washable outer clothing.
    - 3. Wear non-absorbent gloves during the procedure. These gloves shall be disposed of properly after each procedure.
    - 4. If interrupted during a procedure, the ear piercer shall rewash his/her hands and

- ~~put on new gloves, if the interruption required the use of hands.~~
- (4) Enforcement. Enforcement procedures shall be in accordance with Wis. Stat. § 66.0417. The department's administrator of this ordinance may utilize City of Madison commissioned police officers to enforce any aspect of this ordinance, pursuant to Sec. 5.03(4), M.G.O.
- (5) Appeal. Any person aggrieved by an order of the department issued pursuant to Wis. Admin. Code ch. SPS 221 or this section, may appeal such order in accordance with the provisions of Sec. 66.0417, Wis. Stats. to a subcommittee of the Board of Health for Madison and Dane County. The subcommittee, consisting of at least three (3) members, may affirm, set aside, or modify the order by majority vote. That decision shall be final and may be appealed to the Circuit Court of Dane County.
- (6) Licensing and Fees.
- (a) Requirement.
1. Establishment. No person may operate a tattoo or body-piercing establishment or combination thereof on an annual or temporary basis unless the person has obtained a license and paid fees as specified in this section.
  2. Practitioner. No person may tattoo or body pierce another person within the City unless the person has obtained a license and paid fees as specified in Wis. Admin. Code ch. SPS 221.
- (b) Licensing. Application for licensing shall be made thirty (30) days prior to issuance. The licensing year shall be from July 1 through the following June 30, except that a license initially issued during the period beginning on April 1 and ending on June 30 expires on June 30 of the following year. The permit license fee herein established shall be for one year or a fractional part thereof, except that a license initially issued during the period beginning on April 1 and ending on June 30 expires on June 30 of the following year. Renewal licenses shall be obtained on or before June 30 of each year or be subject to a late filing fee of 15% of the filing fee. Payment of the late filing fee shall not relieve any person from any other penalties set forth in this section or in the ordinances for failure to possess or obtain a license.
- (c) Temporary Licensing. At special events every ~~separate table or booth or area~~ shall be considered a temporary establishment and must be licensed as such before the onset of the event. Every practitioner must possess a current and valid State of Wisconsin practitioner license issued by the City of Madison, the State of Wisconsin or other Wisconsin municipality acting on behalf of the State before the practitioner can operate at a special event. An application for a temporary license shall be submitted to the City Clerk's office thirty (30) days prior to the special event to allow for processing.
- (d) Reinspection Fees. If the Department reinspects a tattoo and body-piercing establishment because the Department finds a violation of this chapter, the Department shall charge the establishment owner or operator a reinspection fee of one hundred and fifty dollars (\$150) for the first reinspection and two hundred and fifty dollars (\$250) for the second and subsequent reinspections. A reinspection fee is payable when the reinspection is completed, and is due upon written demand from the Department.
- (de) Fees.
1. Annual establishment fees shall be:
    - a. Tattoo or body-piercing establishments, \$286.
    - b. ~~Ear-piercing establishments, \$187.~~
    - eb. Combined tattoo and body-piercing establishments, \$374.
    - dc. Pre-inspection, one-time only, \$225.
    - ed. First Reinspection Fee, \$150
    - fe. Subsequent Reinspection Fee, \$250
  2. Temporary establishment fees shall be:
    - a. Tattoo or body-piercing ~~or ear-piercing~~ establishments, or combined; first day, \$75.

- b. ~~Tattoo or body-piercing or ear-piercing~~ establishments, or combined; each day after first day, \$25.
- (7) Penalty.
- (a) Any person who violates any provision of this ordinance may be fined not less than twenty-five dollars (\$25), nor more than one thousand dollars (\$1,000). Each day of violation and every violation of any provision of this ordinance may constitute a separate offense.
  - (b) In addition to the above penalties, the department may order the suspension or revocation of the license issued to a ~~practitioner~~ or an establishment under this section.
  - (c) Sec. 66.0417(5)(b), Wis. Stats., regarding the impeding of city inspectors in the performance of their duties and the giving of false information to such inspectors, and all subsequent amendments, additions, and recodifications thereto are hereby adopted by reference.”