CHAPTER 463

BODY ART AND TANNING FACILITIES

463.10 Regulation of tattooists and tattooing establishments.
463.12 Regulation of body piercing and body−piercing establishments.
463.14 Denial, nonrenewal and revocation of license or permit based on delinquent taxes or unemployment insurance contributions.
463.16 Agent status for local health departments.
463.18 Violation of law relating to body art.
463.25 Tanning facilities.

463.10 Regulation of tattooists and tattooing establishments. (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. Except as provided in s. 463.14, 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. 463.16. Except as provided in s. 463.16, fees for licenses issued under this section shall be as determined under s. 440.03 (9).

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

(a) Except as provided in s. 463.14 and subject to sub. (4m), standards and procedures 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 tattoo 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.

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

(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.

History: 1995 a. 468; 1997 a. 191, 237; 2011 a. 120, 165; 2015 a. 55 s. 4041; Stats. 2015 s. 463.10; s. 35.17 correction in (2).

Cross−reference: See also chs. SPS 221 and Med 15, Wis. adm. code.

463.12 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. Except as provided in s. 463.14, 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 by the department under this section or by a local health department that is designated as the department's agent under s. 463.16. Except as provided in s. 463.16, fees for licenses issued under this section shall be as determined under s. 440.03 (9).

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

(a) Except as provided in s. 463.14 and subject to sub. (4m), standards and procedures 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.

(4m) MILITARY EXPERIENCE. Any relevant education, training, instruction, or other experience that an applicant has obtained in connection with military service, as defined in s. 111.32 (12g), counts toward satisfying standards related to education, training, instruction, or other experience for issuing a license as a body piercer if the applicant demonstrates to the satisfaction of the department that the education, training, instruction, or other experience that the applicant obtained in connection with his or her military service is substantially equivalent to the education, training, instruction, or other experience that is required for the issuance of a license for a body piercer.

(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.

History: 1995 a. 468; 1997 a. 191, 237; 1999 a. 32; 2011 a. 120, 209; 2013 a. 165; 2015 a. 55 s. 4042; Stats. 2015 s. 463.12.

Cross−reference: See also chs. SPS 221 and Med 15, Wis. adm. code.

463.14 Denial, nonrenewal and revocation of license or permit based on delinquent taxes or unemployment insurance contributions. (1) Except as provided in sub. (1m), the department shall require each applicant to provide the department with the applicant's social security number, if the

applicant is an individual, or the applicant's federal employer identification number, if the applicant is not an individual, as a condition of issuing or renewing a license under s. 463.10 or 463.12, or a permit under s. 463.25.

(1m) If an individual who applies for or to renew a license or permit under sub. (1) does not have a social security number, the individual, as a condition of obtaining the license or permit, shall submit a statement made or subscribed under oath or affirmation to the department that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of children and families. A license or permit issued or renewed in reliance upon a false statement submitted under this subsection is invalid.

(2) The department may not disclose any information received under sub. (1) to any person except to the department of revenue for the sole purpose of requesting certifications under s. 73.0301 and to the department of workforce development for the sole purpose of requesting certifications under s. 108.227.

(3) Except as provided in sub. (1m), the department shall deny an application for the issuance or renewal of a license or permit specified in sub. (1) if the applicant does not provide the information specified in sub. (1).

(4) The department shall deny an application for the issuance or renewal of a license or permit specified in sub. (1), or shall revoke the license or permit specified in sub. (1), if the department of revenue certifies under s. 73.0301 that the applicant for or holder of the license or permit is liable for delinquent taxes.

(5) The department shall deny an application for the issuance or renewal of a license or permit specified in sub. (1), or shall revoke the license or permit specified in sub. (1), if the department of workforce development certifies under s. 108.227 that the applicant for or holder of the license or permit is liable for delinquent unemployment insurance contributions.

History: 1997 a. 237; 1999 a. 9; 2007 a. 20; 2013 a. 36; 2015 a. 55 s. 4043; Stats. 2015 s. 463.14.

463.16 Agent status for local health departments. **(1)** In the administration and enforcement of ss. 463.10 and 463.12, the department may enter into a written 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 safety and professional services may issue licenses, collect license fees established under s. 440.03 (9) and make investigations or inspections of tattooists and tattoo establishments and body piercers and body−piercing establishments. If the department of safety and professional services designates a local health department as its agent, the department of safety and professional services 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 of safety and professional services shall reimburse the local health department furnishing the service at the rate of 80 percent 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. 463.10 (4) (a) and 463.12 (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 safety and professional 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. 463.10 or 463.12 and rules promulgated under s. 463.10 or 463.12.

(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 safety and professional services for the department of safety and professional services to collect fees and issue licenses under s. 463.10 or 463.12. The department of safety and professional services 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 safety and professional 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. 463.10 or 463.12 or rules promulgated by the department of health services under s. 463.10 or 463.12. No such provision may conflict with s. 463.10 or 463.12 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 person 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 safety and professional 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. 463.10 and 463.12 and monitoring and evaluating the activities of, and providing education and training to, agent local health departments. The department may not promulgate a rule under which a local health department may charge an individual who is eligible for the veterans fee waiver program under s. 45.44 a state fee to obtain a license under s. 463.10 (3) or 463.12 (3). 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 percent of the license fees established under s. 440.03 (9).

History: 1995 a. 468; 2007 a. 20 s. 9121 (6) (a); 2011 a. 209; 2015 a. 55 s. 4044; Stats 2015 s. 463.16.

463.18 Violation of law relating to body art. Any person who willfully violates or obstructs the execution of any state statute or rule, county, city, or village ordinance or departmental order under this chapter and relating to the public health, for which no other penalty is prescribed, shall be fined not more than $500 or imprisoned for not more than 30 days or both.

History: 2015 a. 55.

463.25 Tanning facilities. (1) DEFINITIONS. In this section:

(a) "Phototherapy device" means equipment that emits ultraviolet radiation and is used in treating disease.

(b) "Tanning device" means equipment that emits electromagnetic radiation having wavelengths in the air between 200 and 400 nanometers and that is used for tanning of human skin and any equipment used with that equipment, including but not limited to protective eyewear, timers and handrails, except that "tanning device" does not include a phototherapy device used by a physician.

(c) "Tanning facility" means a place or business that provides persons access to a tanning device.

(2) PERMITS. (a) No person may operate a tanning facility without a permit that the department may, except as provided in s. 463.14, issue under this subsection. The holder of a permit issued under this subsection shall display the permit in a conspicuous place at the tanning facility for which the permit is issued.

(b) Permits issued under this subsection shall expire annually on June 30. Except as provided in s. 463.14, a permit applicant shall submit an application for a permit to the department on a form provided by the department with the permit fee established by the department under s. 440.03 (9). The application shall include the name and complete mailing address and street address of the tanning facility and any other information reasonably required by the department for the administration of this section.

(3) ADVERTISING. No tanning facility may state in any advertising that the tanning facility holds a license or permit issued by the department to operate a tanning facility.

(4) NOTICE. Each tanning facility shall give to each of its customers written notice of all of the following:

(a) Failure to wear the eye protection provided by the tanning facility may damage the customer's eyes and cause cataracts.

(b) Overexposure to a tanning device causes burns.

(c) Repeated exposure to a tanning device may cause premature aging of the skin and skin cancer.

(d) Abnormal skin sensitivity or burning of the skin while using a tanning device may be caused by the following:

1. Certain foods.

2. Certain cosmetics.

3. Certain medications, including but not limited to tranquilizers, diuretics, antibiotics, high blood pressure medicines and birth control pills.

(e) Any person who takes a drug should consult a physician before using a tanning device.

(5) WARNING SIGN. Each tanning facility shall prominently display a warning sign in each area where a tanning device is used. That sign shall convey the following directions and information:

(a) Follow instructions.

(b) Avoid too frequent or too lengthy exposure. Like exposure to the sun, use of a tanning device can cause eye and skin injury and allergic reactions. Repeated exposure can cause chronic sun damage, which is characterized by wrinkling, dryness, fragility and bruising of the skin and skin cancer.

(c) Wear protective eyewear.

(d) Ultraviolet radiation from tanning devices will aggravate the effects of the sun, so do not sunbathe during the 24 hours immediately preceding or immediately following the use of a tanning device.

(e) Medications and cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a tanning device if you are using medications, have a history of skin problems or believe that you are especially sensitive to sunlight. Women who are pregnant or using birth control pills and who use a tanning device may develop discolored skin.

(f) If your skin does not tan when exposed to the sun it is unlikely that your skin will tan when exposed to this tanning device.

(6) TUBE REPLACEMENT. Each tanning facility shall post a sign in each area where a tanning device is used stating the date on which each fluorescent tube in that tanning device was last replaced. The tanning facility shall maintain a record of the date on which each fluorescent tube is replaced.

(7) CLAIMS PRECLUDED. No owner or employee of a tanning facility may claim, or distribute materials that claim, that using a tanning device is free of risk.

(8) LIABILITY. A tanning facility's compliance with the requirements of subs. (4) and (5) does not relieve the owner or any employee of the tanning facility from liability for injury sustained by a customer from the use of a tanning device.

(9) DUTIES OF OWNER. The owner of a tanning facility shall ensure that all of the following requirements are fulfilled:

(a) No customer under 16 years of age is permitted to use the tanning facility.

(b) During operating hours there is present at the tanning facility a trained operator who is able to inform customers about, and assist customers in, the proper use of tanning devices.

(c) Each tanning bed is properly sanitized after each use.

(d) Each customer, before he or she begins to use a tanning device, is provided with properly sanitized and securely fitting protective eyewear that protects the wearer's eyes from ultraviolet radiation and allows enough vision to maintain balance.

(e) Customers are not allowed to use a tanning device unless the customer uses protective eyewear.

(f) Each customer is shown how to use such physical aids as handrails and markings on the floor to determine the proper distance from the tanning device.

(g) A timing device that is accurate within 10 percent is used.

(h) Each tanning device is equipped with a mechanism that allows the customer to turn the tanning device off.

(i) Each customer is limited to the maximum exposure time recommended by the manufacturer.

(j) Customers are not allowed to use a tanning device more than once every 24 hours.

(k) The interior temperature of the tanning facility does not exceed 100 degrees Fahrenheit.

(L) The statements under sub. (10) (a) are retained for 3 years or until the customer signs a new statement.

(10) DUTIES OF USER. A user of a tanning facility shall do all of the following:

(a) Immediately before the customer's first use of a tanning facility in a year, sign a statement acknowledging that he or she has read and understands the notice under sub. (4) and the warning sign under sub. (5) and specifying that the customer agrees to use protective eyewear.

(b) Use protective eyewear at all times while using a tanning device.

(11) INJURY REPORTS. If a person requires medical attention due to use of a tanning facility, the owner of that tanning facility shall report that injury to the department in writing and send a copy of that report to the injured person. The owner of the tanning facility shall retain a copy of the report for 3 years.

(12) RULES. The department may promulgate rules necessary to administer this section.

(13) DENIAL, SUSPENSION OR REVOCATION OF PERMITS. The department may under this section, after a hearing under ch. 227,

deny issuance of a permit to an applicant or suspend or revoke any permit issued under sub. (2) if the applicant or permit holder or his or her employee violates sub. (2), (3), (4), (5), (6), (7), (9) or (11) or any rule promulgated thereunder.

(14) ENFORCEMENT. The department shall enforce this section.

(15) PENALTIES. Any person who violates sub. (2), (3), (4), (5), (6), (7), (9) or (11) or any rule promulgated thereunder may be required to forfeit not less than $50 nor more than $250. The court may also revoke a permit issued to any person under sub. (2) if that person or his or her employee violates sub. (3), (4), (5), (6), (7), (9) or (11).

History: 1991 a. 192; 1993 a. 27 s. 355; Stats. 1993 s. 255.08; 1997 a. 191, 237; 2015 a. 55 s. 4108: 2015 Stats. s. 463.25.

Cross−reference: See also ch. SPS 220, Wis. adm. code.