

PARLIAMENT OF VICTORIA

**Summary Offences Amendment (Tattooing and
Body Piercing) Bill 2008**

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PARLIAMENT OF VICTORIA

Introduced in the Assembly

Summary Offences Amendment (Tattooing and Body Piercing) Bill 2008

A Bill for an Act to amend the **Summary Offences Act 1966** with respect to tattooing and body piercing and for other purposes.

The Parliament of Victoria enacts:

1 Purpose

The purpose of this Act is to amend the **Summary Offences Act 1966**—

- 5
- (a) to prohibit the practices of scarification, tongue splitting, branding and beading on persons under the age of 18 years;
- (b) to increase the maximum penalty for the offence of tattooing of persons under the age of 18 years;
- 10
- (c) to prohibit the intimate body piercing of persons under the age of 18 years;

- (d) to insert new offences concerning other body piercing of persons under the age of 16 years.

2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation before 1 January 2009, it comes into operation on that day.

3 Tattooing of persons under 18

- (1) Before section 42(1) of the **Summary Offences Act 1966** insert—

"(1AA) In this section—

beading means the cutting of the skin of a person and the insertion of an object beneath the skin to produce a lump;

branding means the application of heat, cold or a substance to the skin of a person to produce scar tissue;

like process includes scarification, tongue splitting, branding and beading;

person means a living human being;

scarification means the cutting of the skin of a person to create scar tissue;

tongue splitting means the cutting of the tongue of a person to divide the tongue, or part of the tongue, into 2 or more segments."

- (2) In the penalty set out at the foot of section 42(1) of the **Summary Offences Act 1966**, for "5 penalty units" substitute "60 penalty units".

See:
Act No.
7405.
Reprint No. 9
as at
14 September
2005
and
amending
Act Nos
16/2004,
97/2005,
23/2006,
24/2006,
32/2006,
63/2006,
49/2007,
8/2008 and
9/2008.
LawToday:
www.
legislation.
vic.gov.au

4 New Division 6 inserted in Part I

After Division 5 of Part I of the **Summary Offences Act 1966** insert—

"Division 6—Body piercing

43 Definitions

(1) In this Division—

body piercer means a person of or over the age of 16 years who—

- (a) carries on a body piercing business; or
- (b) is employed in a body piercing business; or
- (c) performs body piercing for a fee, wage or other remuneration or payment in kind;

body piercing means the piercing of the human body to create one or more entry holes, or entry and exit holes, for the insertion of an object;

body piercing business means a business that provides a service of body piercing, whether or not the business provides any other service;

evidence of age document, in relation to a person, means—

- (a) a proof of age card issued to the person by the Director of Liquor Licensing under section 176 of the **Liquor Control Reform Act 1998** or a corresponding law of another State or a Territory;

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(b) a driver licence or learner permit issued to the person under the **Road Safety Act 1986** or a corresponding law of another State or a Territory;

(c) a passport issued to the person by any country;

(d) a document that—

(i) bears a photograph of the person; and

(ii) states the person's age or date of birth; and

(iii) is issued by a person, or by or on behalf of a government department or an agency, approved by the Minister under subsection (2);

registered health practitioner has the same meaning as in the **Health Professions Registration Act 2005**;

registered student has the same meaning as in the **Health Professions Registration Act 2005**;

regulated health service has the same meaning as in the **Health Professions Registration Act 2005**.

(2) For the purposes of paragraph (d)(iii) of the definition of *evidence of age document*, the Minister, by notice published in the Government Gazette, may approve a person, a government department or an agency for the purposes of this Division.

(3) The Minister, by notice published in the Government Gazette, may vary or revoke an approval under subsection (2).

43A Application

- 5
- (1) Nothing in this Division applies to body piercing performed in good faith—
- (a) in the course of a regulated health service provided by a registered health practitioner; or
- (b) in the course of clinical training by a registered student.
- 10
- (2) Nothing in this Division affects liability for an offence against any other provision of this Act or any other Act or at common law.
- 15
- (3) Consent given under this Division to body piercing does not constitute a defence to a charge for an offence against any other provision of this Act or any other Act or at common law.

44 Intimate body piercing of persons under 18

- 20
- (1) In this section, *genitalia* includes surgically constructed genitalia.
- (2) A body piercer must not perform body piercing on the genitalia, anal region, perineum or nipples of a person under the age of 18 years, whether or not consent has been given to the body piercing.
- 25
- Penalty: 60 penalty units.
- (3) It is a defence to a prosecution for an offence against subsection (2) to prove that, at the time of the alleged offence—
- 30
- (a) the defendant had seen an evidence of age document in relation to the person whose age is material to the offence; and

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(b) the evidence of age document indicated that the person was of or over the age of 18 years.

5 (4) A body piercer must not employ or, in the course of the body piercing business, direct or allow a person under the age of 16 years to perform body piercing on the genitalia, anal region, perineum or nipples of a person under the age of 18 years, whether at the premises of the business or elsewhere.

10 Penalty: 60 penalty units.

44A Non-intimate body piercing of persons under 16

15 (1) In this section, *consent* means consent to the number and location of piercings to be performed.

20 (2) A body piercer must not perform body piercing on a person under the age of 16 years unless written consent has been given in person to the body piercer by—

(a) a parent or guardian of the person to be pierced; and

25 (b) if the person to be pierced is of or over the age of 10 years and has capacity to consent, that person.

Penalty: 20 penalty units.

30 (3) It is a defence to a prosecution for an offence against subsection (2) to prove that, at the time of the alleged offence—

(a) the defendant had seen an evidence of age document in relation to the person whose age is material to the offence; and

(b) the evidence of age document indicated that the person was of or over the age of 16 years.

5 (4) A body piercer must not employ or, in the course of the body piercing business, direct or allow a person under the age of 16 years to perform body piercing on another person under the age of 16 years without the written consents required by subsection (2), whether
10 at the premises of the business or elsewhere.

Penalty: 20 penalty units."

5 Transitional

After section 62(4) of the **Summary Offences Act 1966** insert—

15 "(5) Section 42 as amended by section 3(1) of the **Summary Offences Amendment (Tattooing and Body Piercing) Act 2008** applies only to offences alleged to have been committed on or after the commencement of
20 section 3(1) of that Act.

25 (6) For the purposes of subsection (5), if an offence is alleged to have been committed between two dates, one before and one after the commencement of section 3(1) of the **Summary Offences Amendment (Tattooing and Body Piercing) Act 2008**, the offence is alleged to have been committed before that commencement."

6 Repeal of amending Act

30 This Act is **repealed** on 1 January 2010.

Note

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

ENDNOTES

By Authority. Government Printer for the State of Victoria.