

ภาคผนวก

เชิงอรรถที่ 4 ของบทที่ 1

381.00787 Tattooing prohibited; penalty.

(1) A person may not tattoo the body of a minor child younger than 16 years of age unless the tattooing is performed for medical or dental purposes by a person licensed to practice medicine or dentistry under chapter 458, chapter 459, or chapter 466.

(2) A person may not tattoo the body of a minor child who is at least 16 years of age, but younger than 18 years of age, unless:

(a) The minor child is accompanied by his or her parent or legal guardian;

(b) The minor child and his or her parent or legal guardian each submit proof of his or her identity by producing a government-issued photo identification;

(c) The parent or legal guardian submits his or her written notarized consent in the format prescribed by the department;

(d) The parent or legal guardian submits proof that he or she is the parent or legal guardian of the minor child; and

(e) The tattooing is performed by a tattoo artist or guest tattoo artist licensed under ss.381.00771-381.00791 or a person licensed to practice medicine or dentistry under chapter 458, chapter 459, or chapter 466.

(3) A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 75.082 or s. 775.083. However, a person who tattoos the body of a minor child younger than 18 years of age does not violate this section, if:

(a) The person carefully inspects what appears to be a government-issued photo identification that represents that the minor child is 18 years of age or older.

(b) The minor child falsely represents himself or herself as being 18 years of age or older and presents a fraudulent identification.

(c) A reasonable person of average intelligence would believe that the minor child is 18 years of age or older and that the photo identification is genuine, was issued to the minor child, and truthfully represents the minor child's age.

เชิงอรรถที่ 8 ของบทที่ 3

CHAPTER I "Tattoo dermal breaking and drilling

"Section 1" Tattoo by broken skin and body piercing Tattoo by broken skin and body piercing

"Art. R. 1311-1. - The provisions of this section apply to the implementation of technical Tattoo by breaking the skin, including the technique of permanent makeup and body piercing in except drilling the pinna and the wing of the nose when it is performed by the technical gun earwig.

"Art. R. 1311-2. - People who implement the techniques mentioned in Article R. 1311-1 report this activity to the prefect of the department of the place of performance of this activity. The cessation of the activity is declared with the same authority. The terms of these statements are established by order of Minister for Health.

"Art. R. 1311-3. - People who implement the techniques mentioned in Article R. 1311-1 must be trained in hygiene and health conditions laid down in Article R. 1311-4. An order of Minister for Health determines the categories of institutions and organizations authorized by the State representative in the region to deliver this training, and the contents thereof and diplomas accepted by the equity method.

"Art. R. 1311-4. - The implementation of the techniques mentioned in Article R. 1311-1 is exercised in the general rules of hygiene and sanitation. In particular, observe the following: "- The material penetrating the skin barrier, coming into contact with the skin or mucosa and the customer direct substrates of this material are either single use, sterile or sterilized before each use;

เชิงอรรถที่ 11 ของบทที่ 3

"SECTION 2. Definition of terms.- As used herein, the following shall mean:

a) "Body piercing" means the creation of an opening in the body, excluding the ear, for the purpose of inserting jewelry or other decoration.

b) "Consent of a minor's parent or legal guardian" means the presence of a parent or legal guardian during the performance of body piercing or tattooing upon the minor after the

parent or legal guardian has provided reasonable proof of personal identity and familial relationship.

c) "Minor" means a person younger than 18 years of age.

d) "Personal identification" means valid driver's license or other picture identification card that expressly states that the person is 18 years of age or older"

e) "Tattoo" means to fix an indelible mark or figure upon the body by inserting a pigment under the skin or by producing scars.

เชิงอรรถที่ 12 ของบทที่ 3

FIFTEENTH CONGRESS OF THE REPUBLIC OF THE PHILIPPINES First Regular Session Senate Bill No. 1125“ INTRODUCED BY SEN. MANNY VILLAR EXPLANATORY NOTE There are numerous health impacts and risks associated with tattooing and piercing, therefore, they have to be regulated by the government. The origin and chemical structure of coloring agents used for tattooing are hardly known. Pigments are mainly industrial organic pigments with high microbiological and impurities and a load of metals such as cobalt and mercury. The observed health effects, which are potentially associated with tattooing and piercing, include

- 1) Viral infections such as hepatitis, AIDS and cutaneous infections;
- 2) Bacterial infections such as impetigo, toxic shock syndrome, tetanus, chancroid, tuberculosis and leprosy;
- 3) Fungal infections such as sporotrichosis and zygomycosis;
- 4) Allergic reactions such as cutaneous irritation and urticaria;
- 5) Granulomatous/lichenoid reactions;
- 6) Pseudo-lymphomas;
- 7) Lymphadenopathy;
- 8) Sarcoidosis;
- 9) Malignant lesions such as melanoma and skin cancer;
- 10) Behavioral changes
- 11) Other skin diseases such as psoriasis, photosensitization, phototoxicity and photogenotoxicity”

เชิงอรรถที่ 18 ของบทที่ 3

18-1523. TATTOOING, BRANDING AND BODY PIERCING OF MINORS. (1) As used in this section:

(a) "Body piercing" means the perforation of any human body part other than an earlobe for the purpose of inserting jewelry or other decoration or for some other nonmedical purpose;

(b) "Branding" means a permanent mark made on human tissue by burning with a hot iron or other instrument for the purpose of decoration or for some other nonmedical purpose;

(c) "Minor" means a person under the age of eighteen (18) years but does not include a person who is an emancipated minor; and

(d) "Tattoo" means one (1) or more of the following but does not include any mark or design done for a medical purpose:

(i) An indelible mark made on the body of another person by the insertion of a pigment under the skin; or

(ii) An indelible design made on the body of another person by production of scars other than by branding.

เชิงอรรถที่ 21 ของบทที่ 3

Summary Offences Act 1953 Tattooing, body piercing and body modification—Part 4

“Part 4—Tattooing, body piercing and body modification

21P—Interpretation and application

(1) In this Part, unless the contrary intention appears—

body branding means the process by which a mark, symbol or pattern is, by burning or cauterizing, applied to a person's skin;

body implantation means the implanting of an object beneath the skin; body modification procedure means—

(a) tattooing; and

(b) body branding; and

(c) body implantation; and

(d) earlobe stretching; and

- (e) tongue splitting; and
- (f) body scarification; and
- (g) any other procedure prescribed for the purposes of this paragraph;”

เชิงอรรถที่ 25 ของบทที่ 3

Regulation of Infection Control in the Body Art Industry in Australia and New Zealand A Summary National Public Health Partnership January 2002. p. 8“ SOUTH AUSTRALIA In South Australia, the following legislation relates to Body Art industry:

- 1) Summary Offences Act 1953; and
- 2) Public and Environmental Health Act 1987.

Age of Consent – It is an offence to tattoo a minor (under 18) under S21A of the Summary Offences Act 1953. A Private Member's Bill is currently before Parliament to extend that to cover other body piercing of children.

Sections 15 & 17 of the Public and Environmental Health Act 1987 give local councils powers to remedy insanitary conditions or activities giving rise to a risk to health. Guidelines have been issued to assist councils and persons engaging in skin penetration activities in proper infection control procedures. They could form the basis for a notice under those sections if an operator in the industry has inadequate procedures. SA Health Commission Guidelines on the Safe and Hygienic Practice of Skin Penetration were issued in November 1995. They cover:

- 1) aseptic or "non-touch" procedures;
- 2) cleaning disinfection & sterilisation of equipment;
- 3) disinfectants;
- 4) hand washing and personal hygiene;
- 5) skin preparation;
- 6) needle stick injuries and cleaning of wounds;
- 7) general hygiene;
- 8) waste disposal;
- 9) disposal of sharps; and
- 10) storage & safe handling of chemicals.

A review of the guidelines has just commenced involving industry, local council, Environmental Health Officers (EHOs) and other professionals.”

เชิงอรรถที่ 26 ของบทที่ 3

Healthy Body Art Body Piercing Infection and Injury Research Report Southern Primary Health – Noarlunga October 2006 “Blood Borne Viruses

Modern medical knowledge has made us aware of the potential dangers associated with skin penetration procedures. If precautions are not taken, blood-borne viruses such as Hepatitis B, Hepatitis C, HIV and a range of bacterial infections can be transmitted to clients or operators by contaminated equipment or unhygienic procedures and premises.

The risk of exposure to a blood-borne virus varies for clients and operators. The larger the population who have a blood-borne virus and are involved in skin penetration procedures, the higher the risk that someone else can be exposed during body piercing, unless the needles and instruments are sterile.

The Hepatitis C virus (HCV) is primarily transmitted through blood-to-blood contact. The most common means of transmission in Australia is the sharing of injecting equipment by injecting drug users [Department of Health and Aged Care, National Hepatitis C Strategy 2005-2008].

Approximately 90% of people with newly acquired Hepatitis C infection report a history of injecting drug use. In addition, 10% of infections result from other risk behaviours involving blood to blood contact such as body piercing with contaminated equipment, needlestick injuries and vertical transmission from mother to baby [Australian Institute for Primary Care, National Hepatitis C Resource Manual].

The total number of people living with Hepatitis C will continue to increase as long as treatment levels and general awareness of the behaviours which place people at risk remain low [Department of Health and Aged Care, National Hepatitis C Strategy 2005-2008]. ”

เชิงอรรถที่ 28 ของบทที่ 3

"Section 3" Common Provisions

"Art. R. 1311-10. - A tattoo by breaking the skin can only be achieved with products tattoo respecting the provisions of Articles L. 513-10-1 to L. 513-10-4.

"The rods used during an initial piercing until healing and stems are used after healing comply with the provisions of Article R. 5132-45 and regulations relating to nickel adopted for its application.

"Art. R. 1311-11. - It is forbidden to practice the techniques mentioned in Articles R. 1311-1 and R. 1311-6 on a minor without the written consent of a holder of parental authority or guardian. Those making these practices on a minor must be able, for three years, to present evidence of consent to the supervisory

เชิงอรรถที่ 29 ของบทที่ 3

SENATE Senate Bill No. 1125 AN ACT PUNISHING THE ACT OF UNDERAGE TATTOOING AND BODY PIERCING

b) "Consent of a minor's parent or legal guardian" means the presence of a parent or legal guardian during the performance of body piercing or tattooing upon the minor after the parent or legal guardian has provided reasonable proof of personal identity and familial relationship

เชิงอรรถที่ 30 ของบทที่ 3

REPUBLIC OF THE PHILIPPINES FIFTEENTH CONGRESS First Regular Session
SENATE Senate Bill No. 1126 "Under the proposed measure, the owner of a tattoo studio or tattoo artist shall have the duty to discuss with the patron or person intending to be tattooed the health risks involved in the tattoo requested, including the potential that a tattoo may interfere with the clinical reading of a magnetic resonance imaging study, should the patron ever encounter a medical need for such a study. The owner of a tattoo studio or tattoo artist is also mandated to advise the patron of all the possible complications that may arise in receiving a tattoo.

The proposed bill also seeks to penalize any person who shall perform tattoo work on a minor without the written consent of the latter's parents or guardian; any person who is

intoxicated or under the influence of drugs or alcohol; pregnant or nursing women; any person with contraindicated skin condition; and any person incapable of giving consent due to mental incapacity”

เชิงอรรถที่ 31 ของบทที่ 3

<http://www.preston.gov.uk/businesses/health-and-safety/skin-piercing/consent-body-art/>

“Tattooing Owing to the permanence of a tattoo, the Tattooing of Minors Act 1969 Imposes an age limit of 18 years on persons to be tattooed. A tattoo artist cannot tattoo an under 18 even if they gain parental permission. It is strongly recommended that a tattoo artist asks for identification such as a passport or driving licence and makes a record of that identification, in case they are queried in the future.”

เชิงอรรถที่ 34 ของบทที่ 3

381.00787 Tattooing prohibited; penalty.

“381.00787 Tattooing prohibited; penalty.—

(1) A person may not tattoo the body of a minor child younger than 16 years of age unless the tattooing is performed for medical or dental purposes by a person licensed to practice medicine or dentistry under chapter 458, chapter 459, or chapter 466.

(2) A person may not tattoo the body of a minor child who is at least 16 years of age, but younger than 18 years of age, unless:

- (a) The minor child is accompanied by his or her parent or legal guardian;
- (b) The minor child and his or her parent or legal guardian each submit proof of his or her identity by producing a government-issued photo identification;
- (c) The parent or legal guardian submits his or her written notarized consent in the format prescribed by the department;
- (d) The parent or legal guardian submits proof that he or she is the parent or legal guardian of the minor child; and

(e) The tattooing is performed by a tattoo artist or guest tattoo artist licensed under ss. 381.00771-381.00791 or a person licensed to practice medicine or dentistry under chapter 458, chapter 459, or chapter 466”

เชิงอรรถที่ 37 ของบทที่ 3

Missouri Revised Statutes Chapter 324 Occupations and Professions General Provisions sections 324.520

“2. No person shall knowingly tattoo, brand or perform body piercing on a minor unless such person obtains the prior written informed consent of the minor's parent or legal guardian. The minor's parent or legal guardian shall execute the written informed consent required pursuant to this subsection in the presence of the person performing the tattooing, branding or body piercing on the minor, or in the presence of an employee or agent of such person. Any person who fraudulently misrepresents himself or herself as a parent is guilty of a class B misdemeanor”

เชิงอรรถที่ 38 ของบทที่ 3

Summary Offences Act 1953 Tattooing, body piercing and body modification—Part 4 21R—Performance of certain procedures on minors prohibited

(1) A person must not perform a body modification procedure on a minor. Maximum penalty: \$5 000 or imprisonment for 12 months.

(2) A person must not perform—

(a) an intimate body piercing on a minor; or

(b) any other body piercing on a minor without the consent of the minor's guardian given in accordance with section 21S. Maximum penalty: \$5 000 or imprisonment for 12 months.

(3) Subsection (2)(b) does not apply if the minor on whom the body piercing is to be performed is at least 16 years old.

(4) It is a defence to a charge of an offence against this section to prove that—

(a) the defendant, or some person acting on behalf of the defendant, required the minor, or another person, to produce evidence of a kind required by the regulations of

- (i) his or her age; or
- (ii) the consent of his or her guardian to the carrying out of the relevant procedure, as the case requires; and
- (b) the minor, or another person, made a false statement, or produced false evidence in response to that requirement; and
- (c) in consequence, the defendant reasonably believed that—
 - (i) the minor was of or above the requisite age; or
 - (ii) the guardian consented to the carrying out of the relevant procedure, as the case requires.

(5) A person who seeks to rely on the defence in subsection (4) must, in order to rely on the defence, produce the identifying details, or a copy, of the evidence offered at the time of the alleged offence.

เชิงอรรถที่ 40 ของบทที่ 3

“21S—Pre-conditions to performing certain procedures

- (1) A person must not perform a body piercing or body modification procedure on another person unless—
- (a) the person who is to perform the procedure (the service provider) (or a person acting on behalf of the service provider) and the person on whom the procedure is to be performed (the customer) enter into a written agreement containing the prescribed information as to the nature of the procedure and the manner in which it is to be carried out; and
 - (b) when the agreement is entered into—
 - (i) the customer is given free of charge a copy of the agreement and the prescribed information; and
 - (ii) if the customer is less than 16 years of age and the procedure is a body piercing to which section 21R(2)(b) applies—the consent of the customer's guardian to the procedure is given—
 - (A) in person; or
 - (B) in the prescribed form and verified by statutory declaration. Maximum penalty: \$5 000. Expiation fee: \$315.

(2) Subsection (1) does not apply to an earlobe piercing performed on a person who is at least 16 years old.”

เชิงอรรถที่ 41 ของบทที่ 3

21Q—Performance of body modification procedures on intoxicated persons prohibited

(1) A person must not perform a body piercing or body modification procedure on a person who is intoxicated (whether by alcohol or by any other substance or combination of substances). Maximum penalty: \$5 000 or imprisonment for 12 months.

เชิงอรรถที่ 43 ของบทที่ 3

PENAL CODE ARTICLE 121-2

Legal persons, with the exception of the State, are criminally liable for the offences committed on their account by their organs or representatives, according to the distinctions set out in articles 121-4 and 121-7.

However, local public authorities and their associations incur criminal liability only for offences committed in the course of their activities which may be exercised through public service delegation conventions.

The criminal liability of legal persons does not exclude that of any natural persons who are perpetrators or accomplices to the same act, subject to the provisions of the fourth paragraph of article 121-3.

เชิงอรรถที่ 44 ของบทที่ 3

MINISTRY OF HEALTH, YOUTH AND SPORTS Decree No. 2008-149 of 19 February 2008 laying down the conditions of hygiene and safety for the tattoo practice with broken skin and piercing, and amending the code of the public health (regulations) NOR: SJSP0766174D “Legal persons may incur criminal liability in the accordance with Article 121-2 of the Criminal Code offense under this chapter.

"The penalties incurred by legal persons are:

"1. a fine, in accordance with Article 131-41 of the Criminal Code;

"2 The penalty of confiscation of the thing which was used or intended to commit the offense or of the thing which is the product.

"Art. R. 1312-13. - The occurrence of violations under Articles R. 1312-9 and R. 1312-10 is punished in accordance with Articles 132-11 and 132-15 of the Penal Code. »"

เชิงอรรถที่ 45 ของบทที่ 3

PENAL CODE Subsection 2 Penalties for petty offences Articles 131-40 to 131-44
ARTICLE 131-40

The penalties incurred by legal persons for petty offences are:

1. a fine;
2. the penalties entailing forfeiture or restriction of rights set out under article 131-42. These penalties do not preclude the imposition of one or more of the additional penalties set out under article 131-43

เชิงอรรถที่ 51 ของบทที่ 3

381.00787 Tattooing prohibited; penalty

“(3) A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082_(Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison.)(d) For a felony of the second degree, by a term of imprisonment not exceeding 15 years.) or s. 775.083 (b)\$10,000, when the conviction is of a felony of the first or second degree) However, a person who tattoos the body of a minor child younger than 18 years of age does not violate this section, if:

(a) The person carefully inspects what appears to be a government-issued photo identification that represents that the minor child is 18 years of age or older.

(b) The minor child falsely represents himself or herself as being 18 years of age or older and presents a fraudulent identification.

(c) A reasonable person of average intelligence would believe that the minor child is 18 years of age or older and that the photo identification is genuine, was issued to the minor child, and truthfully represents the minor child’s age. ”

เชิงอรรถที่ 55 ของบทที่ 3

Summary Offences Act 1953

Part 4—Tattooing, body piercing and body modification

“21R—Performance of certain procedures on minors prohibited

(1) A person must not perform a body modification procedure on a minor. Maximum penalty: \$5 000 or imprisonment for 12 months.

(2) A person must not perform—

(a) an intimate body piercing on a minor; or

(b) any other body piercing on a minor without the consent of the minor's guardian given in accordance with section 21S.

Maximum penalty: \$5 000 or imprisonment for 12 months.

(3) Subsection (2)(b) does not apply if the minor on whom the body piercing is to be performed is at least 16 years old.

(4) It is a defence to a charge of an offence against this section to prove that—

(a) the defendant, or some person acting on behalf of the defendant, required the minor, or another person, to produce evidence of a kind required by the regulations of—

(i) his or her age; or

(ii) the consent of his or her guardian to the carrying out of the relevant procedure, as the case requires; and

(b) the minor, or another person, made a false statement, or produced false

evidence in response to that requirement; and

(c) in consequence, the defendant reasonably believed that—

(i) the minor was of or above the requisite age; or

(ii) the guardian consented to the carrying out of the relevant procedure, as the case requires.

(5) A person who seeks to rely on the defence in subsection (4) must, in order to rely on the defence, produce the identifying details, or a copy, of the evidence offered at the time of the alleged offence”

เชิงอรรถที่ 56 ของบทที่ 3

“21Q—Performance of body modification procedures on intoxicated persons prohibited

(1) A person must not perform a body piercing or body modification procedure on a person who is intoxicated (whether by alcohol or by any other substance or combination of substances). Maximum penalty: \$5 000 or imprisonment for 12 months.

(2) It is a defence to a charge of an offence against subsection (1) for the defendant to prove that he or she believed on reasonable grounds that the person on whom the procedure was performed was not intoxicated.”

เชิงอรรถที่ 57 ของบทที่ 3

“21W—Offence to make false statement or produce false evidence

A person must not make a false statement or produce false evidence to a person who offers body piercing or body modification procedures in respect of—

(a) the age of a minor; or

(b) the consent of a minor's guardian to the performance of a body piercing or body modification procedure.

Maximum penalty: \$2,500”

เชิงอรรถที่ 8 ของบทที่ 4

ก่อนเกิดเหตุ จำเลยกับผู้เสียหายมีปากเสียงกัน เกี่ยวกับเรื่องที่คุณเสียหายมาต่อว่ากรณีสั่งเปลี่ยนแปลง จากนั้นจำเลยกับผู้เสียหายก็ตกลงชกต่อยกัน การสมัครงใจชกต่อยกันดังกล่าว จึงมาจากทั้งสองฝ่ายมีสาเหตุโกรธเคืองกัน และตกลงใช้กำลังประทุษร้ายร่างกายต่อกัน อันเป็นการขัดต่อกฎหมาย ความสงบเรียบร้อย และศีลธรรมอันดีของประชาชน จำเลยไม่อาจอ้างว่าผู้เสียหายยินยอมให้จำเลยทำร้ายร่างกายแก่ตัวเพื่อให้พ้นผิดได้ เมื่อพยานหลักฐานฟังได้ว่าจำเลยกับผู้เสียหายมีปากเสียงกัน จากนั้นได้สมัครงใจทำร้ายร่างกายกัน การกระทำของจำเลยจึงไม่เป็นบันดาลโทษฎีกาของจำเลยฟังไม่ขึ้น ข้อเท็จจริงได้ความว่า...จำเลยเป็นหัวหน้างาน ได้มีคำสั่งเปลี่ยนแปลงให้ผู้เสียหายไปขับรถขนขยะ ทำให้ผู้เสียหายเกิดความไม่พอใจ จึงได้ไปต่อว่าแล้วเกิดโต้เถียงกัน และได้ทำกันชกต่อยตัวต่อตัว จำเลยกับผู้เสียหาย ได้ชกต่อยเป็นเหตุให้ผู้เสียหายได้รับบาดเจ็บกระดูกสันหลังหัก ได้รับอันตรายสาหัส ต้องป่วยเจ็บด้วยอาการทุกขเวทนาและจนประกอบกรณีกิจตามปกติไม่ได้

เกินกว่าสี่สิบวัน ศาลชั้นต้นพิพากษาลงโทษจำคุก 1 ปี และศาลอุทธรณ์พิพากษาแก้เป็นว่าลดโทษให้หนึ่งในสาม คงจำคุก 8 เดือน จำเลยฎีกา โดยต่อสู้ว่าผู้เสียหายยินยอมให้ทำร้ายร่างกายเอง และกระทำไปเพราะบันดาลโทสะข้ออ้างของจำเลยจึงฟังไม่ขึ้นดังกล่าวข้างต้น (คำพิพากษาศาลฎีกาที่ 9029/2551)

เชิงอรรถที่ 35 ของบทที่ 4

ความผิดฐานทำร้ายร่างกาย

มาตรา 295 ผู้ใดทำร้ายผู้อื่นจนเป็นเหตุให้เกิดอันตรายแก่กายหรือจิตใจของผู้อื่นนั้น ผู้ที่กระทำความผิดฐานทำร้ายร่างกาย ต้องระวางโทษจำคุกไม่เกินสองปี หรือปรับไม่เกินสี่พันบาท หรือ ทั้งจำทั้งปรับ

การทำร้าย (injury) หมายถึง การกระทำต่อร่างกายหรือจิตใจอันมีผลให้บาดเจ็บเสียหาย การทำร้ายนั้นไม่จำกัดวิธี จะทำร้ายด้วยวิธีใดก็ได้ แต่ต้องเป็นทำร้ายนั้นต้องเหตุให้เกิดอันตรายแก่หรือจิตใจของผู้อื่น เช่น มีบาดแผล เจ็บป่วย หัวแตก เลือดออก บวมช้ำ และถึงแม้ว่าการกระทำนั้นจะไม่ได้ถูกตัวผู้ถูกกระทำเลย เช่น แกล้งให้ตกใจจนเป็นเหตุให้เสียดสี หรือเอายาสลบให้กินหรือทาจนสิ้นสติ

จนเป็นเหตุให้เกิดอันตรายแก่กายหรือจิตใจของผู้อื่นนั้นอันตรายแก่กายหรือจิตใจ คือ ผลของการทำร้ายซึ่งต้องมีความสัมพันธ์กับการกระทำ หมายความว่าผลที่เกิดขึ้นจากการทำร้ายนั้นต้องเป็นผลธรรมดา ตาม ม.63 “ถ้าผลของการกระทำความผิดใดทำให้ผู้กระทำต้องรับโทษหนักขึ้น ผลของการกระทำความผิดนั้นต้องเป็นผลที่ตามธรรมดาย่อมเกิดขึ้นได้” เช่น โดนชกจนฟันหัก ฟันหักต้องเป็นผลธรรมดาที่เกิดขึ้นได้จากการถูกชกเป็นต้น

อันตรายแก่กาย หมายถึง เกิดการบาดเจ็บทางร่างกาย ไม่ว่าจะเกิดจากการถูกเนื้อต้องตัวหรือไม่ แต่มีปัญหาในการวินิจฉัยว่าแค่ไหนที่ถือว่าได้รับอันตรายแก่กายแล้ว ซึ่งมีหลักการพิจารณาว่าบาดแผลใดเป็นอันตรายแก่กายหรือไม่ดังนี้

ต้องพิจารณาจากพฤติการณ์แห่งการทำร้ายว่าร้ายแรงขนาดใดและบาดแผลมากน้อยเพียงใด

(1) จากพฤติการณ์แห่งการทำร้าย

(2) จากบาดแผล

เชิงอรรถที่ 39 ของบทที่ 4

"Section 3"Common Provisions

"Art. R. 1311-10. - A tattoo by breaking the skin can only be achieved with products tattoo respecting the provisions of Articles L. 513-10-1 to L. 513-10-4.

"The rods used during an initial piercing until healing and stems are used after healing comply with the provisions of Article R. 5132-45 and regulations relating to nickel adopted for its application.

"Art. R. 1311-11. - It is forbidden to practice the techniques mentioned in Articles R. 1311-1 and R. 1311-6 on a minor without the written consent of a holder of parental authority or guardian. Those making these practices on a minor must be able, for three years, to present evidence of consent to the supervisory

เชิงอรรถที่ 41 ของบทที่ 4

PENAL CODE ARTICLE 121-2

Legal persons, with the exception of the State, are criminally liable for the offences committed on their account by their organs or representatives, according to the distinctions set out in articles 121-4 and 121-7.

However, local public authorities and their associations incur criminal liability only for offences committed in the course of their activities which may be exercised through public service delegation conventions.

The criminal liability of legal persons does not exclude that of any natural persons who are perpetrators or accomplices to the same act, subject to the provisions of the fourth paragraph of article 121-3.

เชิงอรรถที่ 42 ของบทที่ 4

MINISTRY OF HEALTH, YOUTH AND SPORTS Decree No. 2008-149 of 19 February 2008 laying down the conditions of hygiene and safety for

the tattoo practice with broken skin and piercing, and amending the code of the public health (regulations) NOR: SJSP0766174D "Legal persons may incur criminal liability in the accordance with Article 121-2 of the Criminal Code offense under this chapter.

"The penalties incurred by legal persons are:

"1. a fine, in accordance with Article 131-41 of the Criminal Code;

"2 The penalty of confiscation of the thing which was used or intended to commit the offense or of the thing which is the product.

"Art. R. 1312-13. - The occurrence of violations under Articles R. 1312-9 and R. 1312-10 is punished in accordance with Articles 132-11 and 132-15 of the Penal Code. »”

เชิงอรรถที่ 43 ของบทที่ 4

PENAL CODE Subsection 2 Penalties for petty offences Articles 131-40 to 131-44

ARTICLE 131-40

The penalties incurred by legal persons for petty offences are:

1. a fine;

2. the penalties entailing forfeiture or restriction of rights set out under article 131-

42. These penalties do not preclude the imposition of one or more of the additional penalties set out under article 131-43

เชิงอรรถที่ 46 ของบทที่ 4

REPUBLIC OF THE PHILIPPINES FIFTEENTH CONGRESS First Regular Session
SENATE Senate Bill No. 1126 “Under the proposed measure, the owner of a tattoo studio or tattoo artist shall have the duty to discuss with the patron or person intending to be tattooed the health risks involved in the tattoo requested, including the potential that a tattoo may interfere with the clinical reading of a magnetic resonance imaging study, should the patron ever encounter a medical need for such a study. The owner of a tattoo studio or tattoo artist is also mandated to advise the patron of all the possible complications that may arise in receiving a tattoo.

The proposed bill also seeks to penalize any person who shall perform tattoo work on a minor without the written consent of the latter's parents or guardian; any person who is intoxicated or under the influence of drugs or alcohol; pregnant or nursing women; any person with contraindicated skin condition; and any person incapable of giving consent due to mental incapacity”

เชิงอรรถที่ 47 ของบทที่ 4

SENATE Senate Bill No. 1125 SECTION 5. Person Liable-

a) The person who performed or offered to perform a body piercing or tattooing to the minor; and

b) The owner or operator of a business in which a violation occurs.

SECTION 6. Penalty.-Any person guilty of violating this Act shall suffer the penalty of two (2) years to six (6) years imprisonment and a fine of not less than P20,000.00.

เชิงอรรถที่ 50 ของบทที่ 4

<http://www.preston.gov.uk/businesses/health-and-safety/skin-piercing/consent-body-art/>

“Tattooing Owing to the permanence of a tattoo, the Tattooing of Minors Act 1969 Imposes an age limit of 18 years on persons to be tattooed. A tattoo artist cannot tattoo an under 18 even if they gain parental permission. It is strongly recommended that a tattoo artist asks for identification such as a passport or driving licence and makes a record of that identification, in case they are queried in the future.”

เชิงอรรถที่ 53 ของบทที่ 4

381.00787 *Tattooing prohibited; penalty.*

“381.00787 Tattooing prohibited; penalty.—

(1) A person may not tattoo the body of a minor child younger than 16 years of age unless the tattooing is performed for medical or dental purposes by a person licensed to practice medicine or dentistry under chapter 458, chapter 459, or chapter 466.

(2) A person may not tattoo the body of a minor child who is at least 16 years of age, but younger than 18 years of age, unless:

(a) The minor child is accompanied by his or her parent or legal guardian;

(b) The minor child and his or her parent or legal guardian each submit proof of his or her identity by producing a government-issued photo identification;

(c) The parent or legal guardian submits his or her written notarized consent in the format prescribed by the department;

(d) The parent or legal guardian submits proof that he or she is the parent or legal guardian of the minor child; and

(e) The tattooing is performed by a tattoo artist or guest tattoo artist licensed under ss. 381.00771-381.00791 or a person licensed to practice medicine or dentistry under chapter 458, chapter 459, or chapter 466”

เชิงอรรถที่ 54 ของบทที่ 4

381.00787 Tattooing prohibited; penalty

”(3) A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082_(Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison.)(d) For a felony of the second degree, by a term of imprisonment not exceeding 15 years.) or s. 775.083 (b)\$10,000, when the conviction is of a felony of the first or second degree) However, a person who tattoos the body of a minor child younger than 18 years of age does not violate this section, if:

(a) The person carefully inspects what appears to be a government-issued photo identification that represents that the minor child is 18 years of age or older.

(b) The minor child falsely represents himself or herself as being 18 years of age or older and presents a fraudulent identification.

(c) A reasonable person of average intelligence would believe that the minor child is 18 years of age or older and that the photo identification is genuine, was issued to the minor child, and truthfully represents the minor child’s age. ”

เชิงอรรถที่ 59 ของบทที่ 4

Missouri Revised Statutes Chapter 324 Occupations and Professions General Provisions sections 324.520

“2. No person shall knowingly tattoo, brand or perform body piercing on a minor unless such person obtains the prior written informed consent of the minor's parent or legal guardian. The minor's parent or legal guardian shall execute the written informed consent required pursuant to this subsection in the presence of the person performing the tattooing, branding or body piercing on the minor, or in the presence of an employee or agent of such

person. Any person who fraudulently misrepresents himself or herself as a parent is guilty of a class B misdemeanor”

เชิงอรรถที่ 60 ของบทที่ 4

Definitions--tattooing, branding, body piercing, prohibited, when, penalty.

324.520. 1. As used in sections 324.520 to 324.524, the following terms mean: 2. No person shall knowingly tattoo, brand or perform body piercing on a minor unless such person obtains the prior written informed consent of the minor's parent or legal guardian. The minor's parent or legal guardian shall execute the written informed consent required pursuant to this subsection in the presence of the person performing the tattooing, branding or body piercing on the minor, or in the presence of an employee or agent of such person. Any person who fraudulently misrepresents himself or herself as a parent is guilty of a class B misdemeanor.

3. A person shall not tattoo, brand or perform body piercing on another person if the other person is under the influence of intoxicating liquor or a controlled substance.

เชิงอรรถที่ 62 ของบทที่ 4

Summary Offences Act 1953 Tattooing, body piercing and body modification—Part 421R—Performance of certain procedures on minors prohibited

(1) A person must not perform a body modification procedure on a minor. Maximum penalty: \$5 000 or imprisonment for 12 months.

(2) A person must not perform—

(a) an intimate body piercing on a minor; or

(b) any other body piercing on a minor without the consent of the minor's guardian given in accordance with section 21S. Maximum penalty: \$5 000 or imprisonment for 12 months.

(3) Subsection (2)(b) does not apply if the minor on whom the body piercing is to be performed is at least 16 years old.

(4) It is a defence to a charge of an offence against this section to prove that—

(a) the defendant, or some person acting on behalf of the defendant, required the minor, or another person, to produce evidence of a kind required by the regulations of

- (i) his or her age; or
- (ii) the consent of his or her guardian to the carrying out of the relevant procedure, as the case requires; and
- (b) the minor, or another person, made a false statement, or produced false evidence in response to that requirement; and
- (c) in consequence, the defendant reasonably believed that—
 - (i) the minor was of or above the requisite age; or
 - (ii) the guardian consented to the carrying out of the relevant procedure, as the case requires.
- (5) A person who seeks to rely on the defence in subsection (4) must, in order to rely on the defence, produce the identifying details, or a copy, of the evidence offered at the time of the alleged offence.

เชิงอรรถที่ 64 ของบทที่ 4

“21S—Pre-conditions to performing certain procedures

- (1) A person must not perform a body piercing or body modification procedure on another person unless—
 - (a) the person who is to perform the procedure (the service provider) (or a person acting on behalf of the service provider) and the person on whom the procedure is to be performed (the customer) enter into a written agreement containing the prescribed information as to the nature of the procedure and the manner in which it is to be carried out; and
 - (b) when the agreement is entered into—
 - (i) the customer is given free of charge a copy of the agreement and the prescribed information; and
 - (ii) if the customer is less than 16 years of age and the procedure is a body piercing to which section 21R(2)(b) applies—the consent of the customer's guardian to the procedure is given—
 - (A) in person; or
 - (B) in the prescribed form and verified by statutory declaration. Maximum penalty: \$5 000. Expiation fee: \$315.

(2) Subsection (1) does not apply to an earlobe piercing performed on a person who is at least 16 years old. ”

เชิงอรรถที่ 66 ของบทที่ 4

Summary Offences Act 1953

Part 4—Tattooing, body piercing and body modification

“21R—Performance of certain procedures on minors prohibited

(1) A person must not perform a body modification procedure on a minor. Maximum penalty: \$5 000 or imprisonment for 12 months.

(2) A person must not perform—

(a) an intimate body piercing on a minor; or

(b) any other body piercing on a minor without the consent of the minor's guardian given in accordance with section 21S.

Maximum penalty: \$5 000 or imprisonment for 12 months.

(3) Subsection (2)(b) does not apply if the minor on whom the body piercing is to be performed is at least 16 years old.

(4) It is a defence to a charge of an offence against this section to prove that—

(a) the defendant, or some person acting on behalf of the defendant, required the minor, or another person, to produce evidence of a kind required by the regulations of—

(i) his or her age; or

(ii) the consent of his or her guardian to the carrying out of the relevant procedure, as the case requires; and

(b) the minor, or another person, made a false statement, or produced false evidence

in response to that requirement; and

(c) in consequence, the defendant reasonably believed that—

(i) the minor was of or above the requisite age; or

(ii) the guardian consented to the carrying out of the relevant procedure, as the case requires.

(5) A person who seeks to rely on the defence in subsection (4) must, in order to rely on the defence, produce the identifying details, or a copy, of the evidence offered at the time of the alleged offence”

เชิงอรรถที่ 68 ของบทที่ 4

“21W—Offence to make false statement or produce false evidence

A person must not make a false statement or produce false evidence to a person who offers body piercing or body modification procedures in respect of—

(a) the age of a minor; or

(b) the consent of a minor's guardian to the performance of a body piercing or body modification procedure. Maximum penalty: \$2,500”