

Opening a Tattoo Shop 101 – What You Need to Know to Save Your “Skin”

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If you are considering a career as a tattoo artist and opening your own shop, not only will you need to apply your skills and artistic abilities, but you certainly will need to properly consider and evaluate legal and business implications.

The very first thing you should consider is who you are going to hire as your attorney. Find an attorney who has the knowledge to help you navigate all of the laws which will certainly come up in your tattoo shop ownership. If you can find one who has a love for the art form, even better.

Licenses and Permits to Open Shop:

In most states, you first will need to investigate what legal requirements need to be satisfied to become a duly licensed tattoo artist, or whether you are required to obtain local and State approvals or permits to open a tattoo and body piercing shop. For example, in New Jersey, you will need to satisfy and comply with the rather comprehensive requirements of the Body Art Procedures Act. New Jersey's Act requires any person intending to engage in the act of tattooing, body piercing or other body art to have completed an apprenticeship under the direct supervision of a practitioner in order to learn body art procedures. A tattoo apprentice must complete at least 2,000 hours of training, and a body piercing apprentice must complete at least 1,000 hours of training. In addition, New Jersey requires that an operator of a body art establishment to have at least 12 months experience in the operation of a tattooing facility. There are many other requirements that must be submitted to the State for review and approval, but that is not the purpose of this article. In any State, you should be aware of licensing policies and procedures before you decide to open a tattoo and body art shop.

Form a Business:

Once you determine the licensing or permit requirements in your State, you should then consider forming a business entity to operate the shop. As a tattoo or body piercing artist and during your career, you and your business may potentially face lawsuits resulting from such things as professional liability, employment issues, or premises liability. In this regard, you will want to acquire proper professional malpractice liability insurance, as well as comprehensive general liability insurance and all risk property damage insurance. Furthermore, how you establish your business will be an important consideration. For example, you may want to form a limited liability company (LLC) or corporation (Inc.) to protect your personal assets from claims. It is important to seek out appropriate professional advice from an accountant, insurance agent and an attorney to further discuss and explore your options prior to commencing business operations.

Where to Open Shop:

The next step to consider in opening a tattoo shop is location, and what are the potential road blocks to finding a space to run your establishment. Most, if not all, municipalities have land use and zoning ordinances that govern, control or limit where tattoo and body art establishments may be located within the town boundaries. These ordinances may potentially restrict tattoo shops to a particular location in town, and consequently, there may be a high concentration of competition. Furthermore, I have found that many municipal land use and zoning ordinances are outdated and do not take into consideration the growing industry of tattooing. As such, you may be forced to incur significant expenses to obtain appropriate municipal variances and approvals to open a shop in your desired location. Unless you are purchasing a property to open your shop, chances are you will need to lease space and negotiate favorable terms with a landlord. There are potential perils in negotiating the wrong terms for a lease, as you may face liability to a landlord for rent if your shop fails. A properly structured lease agreement is important to the success of your business.

The Tattoo Artist as Boss:

As a business owner, and unless you are working for someone else, you will likely have employees. You will certainly want to evaluate your obligations under laws to employees, such as providing medical insurance and other employee benefits, and compliance with payroll deductions and taxes.

You may also want to consider establishing shop employment policies and procedures for hiring and terminating employees, for the compliance with any local or State health safety and hygiene requirements to maintain your license or permit, and for the protection of your confidential client records and business information.

I would also recommend employment contracts for your apprentices. While I recognize that some States do not enforce restrictive covenants, a restrictive covenant in an employment contract with an apprentice may further protect you and your business from unscrupulous apprentices or unfair competition. Generally, a restrictive covenant in an employment contract limits the employee after termination of the contract in performing similar work for a period of time and within a certain geographical area. In light of the amount of time that an apprentice must be trained and supervised, use of a reasonable restrictive covenant will limit the apprentice from being trained by you and upon either termination or expiration of the apprenticeship, then opening a competing shop next door or from soliciting of your clientele. You will also want to have carefully drawn provisions to protect your tattoo shop's client list and confidential information. Obviously, you will need to seek appropriate legal counsel on whether the use of restrictive covenants would be enforceable in your State, but it is something to consider.

Protecting Your Art:

Finally, as an artist, you may want to seek protection of your art work by investigating trade-marking and copy-righting laws. These laws are complex and require proper counsel. Your particular style of tattooing or specific pieces of work may be worth protecting from other artists use without authorization.

In summary, it is an exciting journey to becoming a tattoo artist and owning your own shop. However, it will require proper planning by you and some hard work and expense to open an establishment. Do not be discouraged as many have come before you, but do take the time to investigate how best to go about your new adventure, and to plan for success.