



SPONSOR: Rep. Van Sant & Sen. Blevins;
Reps. Atkins, Buckworth, B. Ennis,
Ewing, Fallon, Hall-Long, Lee, Maier,
Mulrooney, Plant, Schwartzkopf,
Thornburg; Sens. Amick, Henry,
Sorenson, Still

HOUSE OF REPRESENTATIVES

142nd GENERAL ASSEMBLY

HOUSE BILL NO. 369

AN ACT TO AMEND TITLES 11 AND 16 OF THE DELAWARE CODE RELATING TO TONGUE SPLITTING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

1 Section 1. Amend Title 11 of the Delaware Code by inserting therein a new section as follows:

2 "§ 1114A. Tongue splitting; class A misdemeanor; class B misdemeanor; class G felony; additional civil penalties.

3 (a) A person is guilty of tongue splitting in the first degree if the person is neither a physician nor a dentist, holding a
4 valid license issued under the laws of the State of Delaware, and the person performs an act of tongue splitting on
5 any other person in this State. Tongue splitting in the first degree is a class A misdemeanor.

6 (b) A person is guilty of tongue splitting in the second degree if he or she performs an act of tongue splitting in this
7 State and the person on whom the act of tongue splitting is performed is either:

8 (1) Under the influence of alcohol or a controlled substance; or

9 (2) Is a minor and the person has failed to obtain the prior written and notarized consent of the minor's adult
10 parent or legal guardian to the specific act of tongue splitting.

11 Tongue splitting in the second degree is a class B misdemeanor.

12 (c) Any person found guilty of a second or subsequent violation of this section is guilty of a class G felony for such
13 second or subsequent offense.

14 (d) In any prosecution for an offense under subsection (b)(2) of this section, it shall be an affirmative defense that the
15 accused was presented with a piece of photo identification by the person on whom he or she performed the
16 procedure setting forth such information that would lead a reasonable person to believe the individual was the
17 person pictured on the identification and that he or she was 18 years of age or older. Failure of the accused to
18 present a photocopy of the identification to the Court when raising a defense under this subsection shall be
19 affirmative proof that no such identification exists.

- 20 (e) An act of tongue splitting performed in violation of subsection (a) of this section constitutes both the practice of
21 medicine without a license and the practice of dentistry without a license. Nothing in this section shall prohibit
22 prosecution under the provisions of either 24 Del. C. § 1134 relating to the practice of dentistry without a license,
23 or 24 Del. C. § 1766 relating to the practice of medicine without a license, or both.
- 24 (f) In addition to the penalties set forth herein, any person who has performed an act of tongue splitting in violation
25 of this section shall be held liable in a civil action, brought by any person aggrieved by such act, for actual
26 damages or \$1,000, whichever is greater; plus reasonable court costs and attorney fees.
- 27 (g) For the purposes of this section ‘tongue splitting’ means the surgical procedure of cutting a human tongue into
28 two or more parts giving it a forked or multi-tipped appearance.”

SYNOPSIS

This Act creates the crimes of Tongue Splitting in the first degree and Tongue Splitting in the second degree.

Tongue splitting in the first degree is a Class A misdemeanor. A person is guilty of Tongue Splitting in the first degree if the person is neither a licensed physician nor a licensed dentist and he or she performs an act of tongue splitting on another person in the State.

Tongue Splitting in the second degree is a class B misdemeanor. A person is guilty of Tongue Splitting in the second degree if the person performs an act of Tongue Splitting on another person in the State and the person on whom the act of tongue splitting is performed is either under the influence of alcohol or a controlled substance or is a minor and the person failed to obtain the prior written and notarized consent of the minor’s adult parent or legal guardian to the specific act of tongue splitting.

In all cases of a second or subsequent violation of this Act a person is guilty of a Class G Felony.

In prosecutions for violations of this Act brought on an allegation that a person performed an act of tongue splitting on a minor without the prior written and notarized consent of the minor’s adult parent, this Act establishes an affirmative defense that the minor presented a piece of photo identification that would lead a reasonable person to conclude that the minor was the person pictured on the identification and that he or she was 18 years of age or older

In addition to the criminal provisions created by this Act, this Act provides that an act constituting Tongue Splitting in the first degree also constitutes practicing both medicine and dentistry without a license and that nothing in this Act prohibits prosecution under the relevant provisions of Title 24 relating to the practice of medicine without a license, or the practice of dentistry without a license, or both.

In addition to the penalties set forth in this Act, any person who has performed an act of tongue splitting in violation of this Act shall be held liable in a civil action, brought by any person aggrieved by such act, for actual damages or \$1,000, whichever is greater; plus reasonable court costs and attorney fees.

For the purposes of this Act ‘tongue splitting’ means the act of cutting a human tongue into two or more parts giving it a forked or multi-tipped appearance.