

1 ENGROSSED

2 **Senate Bill No. 54**

3 (By Senators Green, D. Facemire, Williams, Beach and Stollings)

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5 [Introduced January 11, 2012; referred to the Committee on Health  
6 and Human Resources; and then to the Committee on the Judiciary.]

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11 A BILL to amend and reenact §16-38-3 and §16-38-7 of the Code of  
12 West Virginia, 1931, as amended, all relating to prohibiting  
13 minors under the age of sixteen from obtaining a tattoo;  
14 requiring a parent or legal guardian be present at the tattoo  
15 studio and provide photo identification and written consent  
16 for minors sixteen years of age or older; and providing for  
17 penalties.

18 *Be it enacted by the Legislature of West Virginia:*

19 That §16-38-3 and §16-38-7 of the Code of West Virginia, 1931,  
20 as amended, be amended and reenacted, all to read as follows:

21 **ARTICLE 38. TATTOO STUDIO BUSINESS.**

22 **§16-38-3. Operation standards.**

23 (a) *Records.* --

1 (1) Proper records of tattoos administered shall be maintained  
2 for each patron by the holder of the studio registration;

3 (2) A record shall be prepared for each patron prior to any  
4 procedure being performed and shall include the patron's name and  
5 signature, address, age, date tattooed, design of the tattoo,  
6 location of the tattoo on the patron's body and the name of the  
7 tattoo artist who performed the work;

8 (3) Record entries shall be in ink or indelible pencil and  
9 shall be available for examination by the inspecting authorities  
10 provided in section six of this article;

11 (4) Before tattoo administration, the owner or tattoo artist  
12 shall discuss with the patron the risks involved in the tattoo  
13 requested, including the potential that a tattoo may interfere with  
14 the clinical reading of a magnetic resonance imaging study should  
15 the patron intending to be tattooed ever encounter a medical need  
16 for such a study. The owner shall provide the patron with written  
17 information regarding the possible complications that may arise  
18 from receiving a tattoo. The written information shall be prepared  
19 by the Department of Health and Human Resources. Receipt of the  
20 information shall be acknowledged in writing by the patron. The  
21 owner or tattoo artist shall also keep and maintain the  
22 acknowledgment as part of the patron's record pursuant to the  
23 provisions of subdivision (5) of this subsection;

1 (5) All records required by this section shall be kept on file  
2 for five years by the holder of the studio registration for the  
3 studio in which the tattoo was performed.

4 (b) *Consent.* --

5 (1) ~~Prior written consent for tattooing of minors shall be~~  
6 ~~obtained from one parent or guardian~~ No person under the age of  
7 sixteen may be tattooed. It is prohibited to tattoo a minor  
8 sixteen years of age or older, without the written consent of the  
9 parent or legal guardian. This consent must be executed in the  
10 presence of the tattoo artist or responsible person at the studio  
11 by the parent or legal guardian at the time the tattooing is to  
12 commence. Photographic identification of the parent or legal  
13 guardian is required;

14 (2) All written consents shall be kept on file for five years  
15 by the holder of the studio registration for the tattoo studio in  
16 which the tattoo was performed;

17 (3) The person receiving the tattoo shall attest to the fact  
18 that he or she is not intoxicated or under the influence of drugs  
19 or alcohol.

20 (c) *Tattooing procedures.* --

21 (1) Printed instructions on the care of the skin after  
22 tattooing shall be given to each patron as a precaution to prevent  
23 infection;

1           (2) A copy of the printed instructions shall be posted in a  
2 conspicuous place, clearly visible to the person being tattooed;

3           (3) Each tattoo artist shall wear a clean outer garment, i.e.,  
4 apron, smock, t-shirt, etc.;

5           (4) Tattoo artists who are experiencing diarrhea, vomiting,  
6 fever, rash, productive cough, jaundice, draining or open skin  
7 infections such as boils which could be indicative of more serious  
8 conditions such as, but not limited to, impetigo, scabies,  
9 hepatitis-b, HIV or AIDS shall refrain from tattooing activities  
10 until such time as they are no longer experiencing or exhibiting  
11 the aforementioned symptoms;

12           (5) Before working on each patron, the fingernails and hands  
13 of the tattoo artist shall be thoroughly washed and scrubbed with  
14 hot running water, antibacterial soap and an individual hand brush  
15 that is clean and in good repair;

16           (6) The tattoo artist's hands shall be air blown dried or  
17 dried by a single-use towel. In addition, disposable latex  
18 examination gloves shall be worn during the tattoo process. The  
19 gloves shall be changed each time there is an interruption in the  
20 tattoo application, the gloves become torn or punctured or whenever  
21 their ability to function as a barrier is compromised;

22           (7) Only sterilized or single-use, disposable razors shall be  
23 used to shave the area to be tattooed;

1 (8) Immediately prior to beginning the tattoo procedure, the  
2 affected skin area shall be treated with an antibacterial solution;

3 (9) If an acetate stencil is used by a tattoo artist for  
4 transferring the design to the skin, the acetate stencil shall be  
5 thoroughly cleaned and rinsed in a germicidal solution for at least  
6 twenty minutes and then dried with sterile gauze or dried in the  
7 air on a sanitized surface after each use;

8 (10) If a paper stencil is used by a tattoo artist for  
9 transferring the design to the skin, the paper stencil shall be  
10 single-use and disposable;

11 (11) If the design is drawn directly onto the skin, the design  
12 shall be applied with a single-use article only.

13 (d) *Dyes or pigments.* --

14 (1) Only nontoxic sterile dyes or pigments shall be used and  
15 shall be prepared in sterilized or disposable single-use containers  
16 for each patron;

17 (2) After tattooing, the unused dye or pigment in the  
18 single-use containers shall be discarded along with the container;

19 (3) All dyes or pigments used in tattooing shall be from  
20 professional suppliers specifically providing dyes or pigments for  
21 the tattooing of human skin.

22 (e) *Sterilization of needles.* --

23 (1) A set of individual, sterilized needles shall be used for

1 each patron;

2 (2) No less than twenty-four sets of sterilized needles and  
3 tubes shall be on hand for the entire day or night operation.  
4 Unused sterilized instruments shall be resterilized at intervals of  
5 no more than six months from the date of the last sterilization;

6 (3) Used, nondisposable instruments shall be kept in a  
7 separate, puncture resistant container until brush scrubbed in hot  
8 water and soap and then sterilized by autoclaving;

9 (4) If used instruments are ultrasonically cleaned prior to  
10 being placed in the used instrument container, they shall be  
11 ultrasonically cleaned and then rinsed under running hot water  
12 prior to being placed in the used instrument container;

13 (5) The ultrasonic unit shall be sanitized daily with a  
14 germicidal solution;

15 (6) If used instruments are not ultrasonically cleaned prior  
16 to being placed in the used instrument container, they shall be  
17 kept in a germicidal or soap solution until brush scrubbed in hot  
18 water and soap and then sterilized by autoclaving;

19 (7) All nondisposable instruments, including the needle tubes,  
20 shall be sterilized and ~~shall be~~ handled and stored in such a  
21 manner as to prevent contamination. Instruments to be sterilized  
22 shall be sealed in bags made specifically for the purpose of  
23 autoclave sterilization and ~~shall~~ include the date of

1 sterilization. If nontransparent sterilization bags are utilized,  
2 the bag shall also list the contents;

3 (8) Autoclave sterilization bags, with a color code indicator  
4 which changes color upon proper steam sterilization, shall be  
5 utilized during the autoclave sterilization process;

6 (9) Instruments shall be placed in the autoclave in such a  
7 manner as to allow live steam to circulate around them;

8 (10) No rusty, defective or faulty instruments shall be kept  
9 in the studio.

10 (f) *Aftercare of tattoo.* --

11 The completed tattoo shall be washed with a single-use towel  
12 saturated with an antibacterial solution.

13 **§16-38-7. Violations and penalties.**

14 Any owner of a tattoo studio who does not obtain a West  
15 Virginia business registration certificate, who does not register  
16 with their local or regional board of health, ~~or~~ who fails to  
17 request an inspection pursuant to section six of this article, who  
18 administers a tattoo to a minor under sixteen years of age or  
19 administers a tattoo to a minor sixteen years of age or older  
20 without proper parental consent set forth in this article is guilty  
21 of a misdemeanor and, upon conviction thereof, for a first offense,  
22 may have all of the tattoo equipment and paraphernalia confiscated  
23 and shall be fined \$100. For a second offense, which is a

1 misdemeanor, the owner may have all of the tattoo equipment and  
2 paraphernalia confiscated and shall be fined not less than \$500 nor  
3 more than \$1,000 or confined in ~~county or regional~~ jail not less  
4 than ten days nor more than one year, or both fined and ~~imprisoned~~  
5 confined. For a third offense, which is a misdemeanor, the owner  
6 shall have all the tattoo equipment and paraphernalia confiscated,  
7 shall be fined not less than \$1,000 nor more than \$5,000, or  
8 confined in ~~county or regional~~ jail not less than thirty days nor  
9 more than one year, or both fined and ~~imprisoned~~ confined.