

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 28**

4 (By Senator Green)

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6 [Originating in the Committee on Health and Human Resources;
7 reported March 15, 2013.]

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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 tattoo studio
13 business; prohibiting minors under the age of sixteen from
14 obtaining a tattoo; requiring that a parent or legal guardian
15 be present at the tattoo studio and provide photo
16 identification and written consent for minors sixteen years of
17 age or older; and providing for criminal 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.* --

24 (1) Proper records of tattoos administered shall be maintained

1 for each patron by the holder of the studio registration;

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

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

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

23 (5) All records required by this section shall be kept on file
24 for five years by the holder of the studio registration for the

1 studio in which the tattoo was performed.

2 (b) *Consent.* --

3 (1) ~~Prior written consent for tattooing of minors shall be~~
4 ~~obtained from one parent or guardian~~ A person under the age of
5 sixteen may not be tattooed. A minor sixteen years of age or
6 older, may not be tattooed without the written consent of the
7 parent or legal guardian. This consent must be executed in the
8 presence of the tattoo artist or responsible person at the studio
9 by the parent or legal guardian at the time the tattooing is to
10 commence. Photographic identification of the parent or legal
11 guardian is required;

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

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

18 (c) *Tattooing procedures.* --

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

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

24 (3) Each tattoo artist shall wear a clean outer garment, i.e.,

1 apron, smock, t-shirt, etc.;

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

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

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

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

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

23 (9) If an acetate stencil is used by a tattoo artist for
24 transferring the design to the skin, the acetate stencil shall be

1 thoroughly cleaned and rinsed in a germicidal solution for at least
2 twenty minutes and then dried with sterile gauze or dried in the
3 air on a sanitized surface after each use;

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

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

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

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

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

15 (3) All dyes or pigments used in tattooing shall be from
16 professional suppliers specifically providing dyes or pigments for
17 the tattooing of human skin.

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

19 (1) A set of individual, sterilized needles shall be used for
20 each patron;

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

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

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

8 (5) The ultrasonic unit shall be sanitized daily with a
9 germicidal solution;

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

14 (7) All nondisposable instruments, including the needle tubes,
15 shall be sterilized and ~~shall be~~ handled and stored in such a
16 manner as to prevent contamination. Instruments to be sterilized
17 shall be sealed in bags made specifically for the purpose of
18 autoclave sterilization and shall include the date of
19 sterilization. If nontransparent sterilization bags are utilized,
20 the bag shall also list the contents;

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

24 (9) Instruments shall be placed in the autoclave in such a

1 manner as to allow live steam to circulate around them;

2 (10) ~~No~~ Rusty, defective or faulty instruments ~~shall~~ may not
3 be kept in the studio.

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

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

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

8 Any owner of a tattoo studio who does not obtain a West
9 Virginia business registration certificate, who does not register
10 with their local or regional board of health, ~~or~~ who fails to
11 request an inspection pursuant to section six of this article, or
12 who administers a tattoo to a minor under sixteen years of age or
13 administers a tattoo to a minor sixteen years of age or older
14 without proper parental consent set forth in this article is guilty
15 of a misdemeanor and, upon conviction thereof, ~~for a first offense,~~
16 ~~may have all of the tattoo equipment and paraphernalia confiscated~~
17 ~~and~~ shall be fined \$100. For a second offense, which is a
18 misdemeanor, the owner ~~may have all of the tattoo equipment and~~
19 ~~paraphernalia confiscated~~ and shall be fined not less than \$500 nor
20 more than \$1,000 or confined in ~~county or regional~~ jail not less
21 than ten days nor more than one year, or both fined and ~~imprisoned~~
22 confined. For a third offense, which is a misdemeanor, the owner
23 ~~shall have all the tattoo equipment and paraphernalia confiscated,~~
24 shall be fined not less than \$1,000 nor more than \$5,000, or

1 confined in ~~county or regional~~ jail not less than thirty days nor
2 more than one year, or both fined and ~~imprisoned~~ confined. For a
3 third or subsequent offense, the local health department may also
4 suspend or revoke the owner's business registration certificate to
5 operate a tattoo studio business.

NOTE: The purpose of this bill is to prohibit minors under the age of sixteen from obtaining a tattoo. The bill requires a parent or legal guardian to be present at the tattoo studio, provide photo identification and written consent for minors sixteen years of age or older obtaining a tattoo. The bill also provides for penalties.

Strike-throughs indicate language that would be stricken from the present law and underscoring indicates new language that would be added.