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Senate Bill No. 490

(By Senators Green, Stollings, Hall, D. Facemire, Minard and
Sypolt)

[Introduced February 10, 2011; referred to the Committee on
Health and Human Resources; and then to the Committee on the
Judiciary.]

A BILL to amend and reenact §16-38-3 of the Code of West Virginia,
1931, as amended, relating to prohibiting minors under the age
of sixteen from obtaining a tattoo; and requiring a parent or
guardian’s written consent for minors over the age of sixteen.
Be it enacted by the Legislature of West Virginia:

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

ARTICLE 38. TATTOO STUDIO BUSINESS.
§16-38-3. Operation standards.

- (a) *Records.* --
- (1) Proper records of tattoos administered shall be maintained
for each patron by the holder of the studio registration;
 - (2) A record shall be prepared for each patron prior to any

1 procedure being performed and ~~shall~~ include the patron's name and
2 signature, address, age, date tattooed, design of the tattoo,
3 location of the tattoo on the patron's body and the name of the
4 tattoo artist who performed the work;

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

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

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

24 (b) *Consent.* --

1 (1) No person under the age of sixteen may be tattooed. Prior
2 written consent for tattooing of minors above the age of sixteen
3 shall be obtained from one parent or guardian;

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

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

10 (c) *Tattooing procedures.* --

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (3) All dyes or pigments used in tattooing shall be from
8 professional suppliers specifically providing dyes or pigments for
9 the tattooing of human skin.

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

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

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

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

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

24 (5) The ultrasonic unit shall be sanitized daily with a

1 germicidal solution;

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

6 (7) All nondisposable instruments, including the needle tubes,
7 shall be sterilized and ~~shall be~~ handled and stored in such a
8 manner as to prevent contamination. Instruments to be sterilized
9 shall be sealed in bags made specifically for the purpose of
10 autoclave sterilization and ~~shall~~ include the date of
11 sterilization. If nontransparent sterilization bags are utilized,
12 the bag shall also list the contents;

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

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

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

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

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

NOTE: The purpose of this bill is to prohibit minors under the age of sixteen from obtaining a tattoo and to require a parent or guardian's written consent for minors over sixteen.

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