

ENGROSSED

## Senate Bill No. 54

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

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

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

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

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

**ARTICLE 38. TATTOO STUDIO BUSINESS.**



**§16-38-3. Operation standards.**

1       (a) *Records.* —

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

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

11       (3) Record entries shall be in ink or indelible pencil and  
12 ~~shall~~ be available for examination by the inspecting authori-  
13 ties provided in section six of this article;

14       (4) Before tattoo administration, the owner or tattoo  
15 artist shall discuss with the patron the risks involved in the  
16 tattoo requested, including the potential that a tattoo may  
17 interfere with the clinical reading of a magnetic resonance  
18 imaging study should the patron intending to be tattooed  
19 ever encounter a medical need for such a study. The owner  
20 shall provide the patron with written information regarding  
21 the possible complications that may arise from receiving a



22 tattoo. The written information shall be prepared by the  
23 Department of Health and Human Resources. Receipt of the  
24 information shall be acknowledged in writing by the patron.  
25 The owner or tattoo artist shall also keep and maintain the  
26 acknowledgment as part of the patron's record pursuant to  
27 the provisions of subdivision (5) of this subsection;

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

31 (b) *Consent.* —

32 (1) ~~Prior written consent for tattooing of minors shall be~~  
33 ~~obtained from one parent or guardian~~ No person under the  
34 age of sixteen may be tattooed. It is prohibited to tattoo a  
35 minor sixteen years of age or older, without the written  
36 consent of the parent or legal guardian. This consent must be  
37 executed in the presence of the tattoo artist or responsible  
38 person at the studio by the parent or legal guardian at the  
39 time the tattooing is to commence. Photographic identifica-  
40 tion of the parent or legal guardian is required;

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



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

47       (c) *Tattooing procedures.* —

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

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

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

56       (4) Tattoo artists who are experiencing diarrhea, vomit-  
57   ing, fever, rash, productive cough, jaundice, draining or open  
58   skin infections such as boils which could be indicative of  
59   more serious conditions such as, but not limited to, impetigo,  
60   scabies, hepatitis-b, HIV or AIDS shall refrain from tattoo-  
61   ing activities until such time as they are no longer experienc-  
62   ing or exhibiting the aforementioned symptoms;

63       (5) Before working on each patron, the fingernails and  
64   hands of the tattoo artist shall be thoroughly washed and



65 scrubbed with hot running water, antibacterial soap and an  
66 individual hand brush that is clean and in good repair;

67 (6) The tattoo artist's hands shall be air blown dried or  
68 dried by a single-use towel. In addition, disposable latex  
69 examination gloves shall be worn during the tattoo process.  
70 The gloves shall be changed each time there is an interrup-  
71 tion in the tattoo application, the gloves become torn or  
72 punctured or whenever their ability to function as a barrier  
73 is compromised;

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

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

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

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



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

89 (d) *Dyes or pigments.* —

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

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

96 (3) All dyes or pigments used in tattooing shall be from  
97 professional suppliers specifically providing dyes or pig-  
98 ments for the tattooing of human skin.

99 (e) *Sterilization of needles.* —

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

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

107 (3) Used, nondisposable instruments shall be kept in a  
108 separate, puncture resistant container until brush scrubbed



109 in hot water and soap and then sterilized by autoclaving;

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

114 (5) The ultrasonic unit shall be sanitized daily with a  
115 germicidal solution;

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

121 (7) All nondisposable instruments, including the needle  
122 tubes, shall be sterilized and ~~shall be~~ handled and stored in  
123 such a manner as to prevent contamination. Instruments to  
124 be sterilized shall be sealed in bags made specifically for the  
125 purpose of autoclave sterilization and ~~shall~~ include the date  
126 of sterilization. If nontransparent sterilization bags are  
127 utilized, the bag shall also list the contents;

128 (8) Autoclave sterilization bags, with a color code  
129 indicator which changes color upon proper steam steriliza-



130 tion, shall be utilized during the autoclave sterilization  
131 process;

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

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

136 (f) *Aftercare of tattoo.* —

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

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

1 Any owner of a tattoo studio who does not obtain a West  
2 Virginia business registration certificate, who does not  
3 register with their local or regional board of health, ~~or~~ who  
4 fails to request an inspection pursuant to section six of this  
5 article, who administers a tattoo to a minor under sixteen  
6 years of age or administers a tattoo to a minor sixteen years  
7 of age or older without proper parental consent set forth in  
8 this article is guilty of a misdemeanor and, upon conviction  
9 thereof, for a first offense, may have all of the tattoo equip-  
10 ment and paraphernalia confiscated and shall be fined \$100.  
11 For a second offense, which is a misdemeanor, the owner  
12 may have all of the tattoo equipment and paraphernalia



13 confiscated and shall be fined not less than \$500 nor more  
14 than \$1,000 or confined in ~~county or regional~~ jail not less  
15 than ten days nor more than one year, or both fined and  
16 ~~imprisoned~~ confined. For a third offense, which is a misde-  
17 meanor, the owner shall have all the tattoo equipment and  
18 paraphernalia confiscated, shall be fined not less than \$1,000  
19 nor more than \$5,000, or confined in ~~county or regional~~ jail  
20 not less than thirty days nor more than one year, or both  
21 fined and ~~imprisoned~~ confined.