

Senate Bill No. 54

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

[Introduced January 11, 2012; 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 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 given in person to the tattoo artist or responsible person at
38 the studio by the parent or legal guardian at the time the
39 tattooing is to commence. Photographic identification of the
40 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.

(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.)

HEALTH AND HUMAN RESOURCES COMMITTEE AMENDMENT

on page three, section three, line thirty-seven, by striking out the words "given in person to" and inserting in lieu thereof the words "executed in the presence of".