

RECEIVED

1993 MAY -4 AM 10: 12

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993



# ENROLLED

*Com. Sub. For*  
HOUSE BILL No. *2565*

(By Delegates *Ryan, Mezzatista and Nicol*)



Passed *April 9,* 1993

In Effect *Ninety Days From* Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 2565**  
(By DELEGATES RYAN, MEZZATESTA AND NICOL)

---

[Passed April 9, 1993; in effect ninety days from passage.]

---

AN ACT to amend chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article thirty-three, relating to regulating the tattoo studio business; definitions; outlining standards for sanitation, facilities, operation, procedures and equipment; requiring informed consent of patrons; requiring consent of parent or guardian for tattooing of minors; disposing of waste; requiring registration and inspection of tattoo studios by local or regional boards of health; requiring operating permits; authorizing fees; providing for disposition of fees; and establishing criminal penalties for certain violations.

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

That chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article thirty-three, to read as follows:

**ARTICLE 33. TATTOO STUDIO BUSINESS.**

**§30-33-1. Definitions.**

1 (a) "Adequate ventilation" means a free and unres-

2 tricted circulation of fresh air throughout the tattoo  
3 studio and the expulsion of foul or stagnant air.

4 (b) "Minor" means any person under the age of  
5 eighteen years.

6 (c) "Tattoo" means to mark or color the skin by  
7 pricking in coloring matter so as to form indelible  
8 marks or figures or by the production of scars.

9 (d) "Tattoo studio" means any room or space where  
10 tattooing is practiced or where the business of tattooing  
11 or any part thereof is conducted.

12 (e) "Antibacterial solution" means any solution used to  
13 retard the growth of bacteria approved for application  
14 to human skin and includes all products so labeled.

15 (f) "Germicidal solution" means any solution which  
16 destroys germs, and is so labeled.

17 (g) "Sterilization" means holding in an autoclave for  
18 twenty-five minutes at fifteen pounds pressure at a  
19 temperature of two hundred fifty degrees Fahrenheit or  
20 one hundred twenty-one degrees Celsius.

**§30-33-2. Studio sanitation.**

1 (a) The tattoo artist's hands shall be washed and then  
2 air blown or dried by single use towel prior to beginning  
3 work on each person or when interrupted in the process  
4 of working on a person. In addition, disposable latex  
5 examination gloves shall be worn by the tattoo artist  
6 during the tattooing process. The gloves shall be  
7 changed and properly disposed of each time there is an  
8 interruption in the application of the tattoo, each time  
9 the gloves become torn or punctured, or whenever the  
10 ability of the gloves to function as a barrier is  
11 compromised.

12 (b) Cabinets for the storage of instruments, dyes,  
13 pigments, single use articles, carbon, stencils and other  
14 utensils shall be provided for each operator and shall be  
15 maintained in a sanitary manner.

16 (c) Bulk single use articles shall be commercially  
17 packaged and handled in such a way as to protect them

18 from contamination. Storage of single use articles shall  
19 not be in toilet rooms or in vestibules of toilet rooms nor  
20 under nonpotable water lines or exposed sewer lines.

21 (d) Work tables and chairs or benches shall be  
22 provided for each tattoo artist. The surface of all work  
23 tables and chairs or benches shall be constructed of  
24 material which is smooth, light colored, nonabsorbent,  
25 corrosive-resistant, and easily sanitized. The work tables  
26 and chairs or benches shall be sanitized with a germicidal  
27 solution after each tattoo application. All existing  
28 tattoo studios on the effective date of the administrative  
29 regulation shall be exempt from the required color of  
30 the work table.

31 (e) All materials applied to human skin shall be from  
32 single use articles or transferred from bulk containers  
33 to single use containers and shall be disposed of after  
34 each use.

35 (f) No pets, including working dogs, guide dogs or  
36 security dogs from a certified trainer, may be permitted  
37 in a tattoo studio workroom as defined in subsection (b)  
38 of section four of this article.

**§30-33-3. 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  
6 to any procedure being performed and shall include the  
7 patron's name and signature, address, age, date tat-  
8 tooed, design of the tattoo, location of the tattoo on the  
9 patron's body, and the name of the tattoo artist who  
10 performed the work.

11 (3) Record entries shall be in ink or indelible pencil  
12 and shall be available for examination by the inspecting  
13 authorities 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  
16 the tattoo requested and the possible complications,

17 which shall be entered in the record.

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

22 (b) Consent.

23 (1) Prior written consent for tattooing of minors shall  
24 be obtained from one parent or guardian.

25 (2) All written consents shall be kept on file for five  
26 years by the holder of the studio registration for the  
27 tattoo studio in which the tattoo was performed.

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

31 (c) Tattooing procedures.

32 (1) Printed instructions on the care of the skin after  
33 tattooing shall be given to each patron as a precaution  
34 to prevent infection.

35 (2) A copy of the printed instructions shall be posted  
36 in a conspicuous place, clearly visible to the person  
37 being tattooed.

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

40 (4) Tattoo artists who are experiencing diarrhea,  
41 vomiting, fever, rash, productive cough, jaundice,  
42 draining or open skin infections such as boils which  
43 could be indicative of more serious conditions such as,  
44 but not limited to, impetigo, scabies, hepatitis-b, HIV or  
45 AIDS shall refrain from tattooing activities until such  
46 time as they are no longer experiencing or exhibiting  
47 the aforementioned symptoms.

48 (5) Before working on each patron, the fingernails and  
49 hands of the tattoo artist shall be thoroughly washed and  
50 scrubbed with hot running water, antibacterial soap,  
51 and an individual hand brush that is clean and in good  
52 repair.

53 (6) The tattoo artist's hands shall be air blown dried  
54 or dried by a single use towel. In addition, disposable  
55 latex examination gloves shall be worn during the tattoo  
56 process. The gloves shall be changed each time there is  
57 an interruption in the tattoo application, the gloves  
58 become torn or punctured, or whenever their ability to  
59 function as a barrier is compromised.

60 (7) Only sterilized or single use, disposable razors  
61 shall be used to shave the area to be tattooed.

62 (8) Immediately prior to beginning the tattoo proce-  
63 dure the affected skin area shall be treated with an  
64 antibacterial solution.

65 (9) If an acetate stencil is used by a tattoo artist for  
66 transferring the design to the skin, the acetate stencil  
67 shall be thoroughly cleaned and rinsed in a germicidal  
68 solution for at least twenty minutes and then dried with  
69 sterile gauze or dried in the air on a sanitized surface  
70 after each use.

71 (10) If a paper stencil is used by a tattoo artist for  
72 transferring the design to the skin, the paper stencil  
73 shall be single use and disposable.

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

76 (d) Dyes or pigments.

77 (1) Only nontoxic sterile dyes or pigments shall be  
78 used and shall be prepared in sterilized or disposable  
79 single use containers for each patron.

80 (2) After tattooing, the unused dye or pigment in the  
81 single use containers shall be discarded along with the  
82 container.

83 (3) All dyes or pigments used in tattooing shall be  
84 from professional suppliers specifically providing dyes  
85 or pigments for the tattooing of human skin.

86 (e) Sterilization of needles.

87 (1) A set of individual, sterilized needles shall be used  
88 for each patron.

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

94 (3) Used, nondisposable instruments shall be kept in  
95 a separate, puncture resistant container until brush  
96 scrubbed in hot water and soap, and then sterilized by  
97 autoclaving.

98 (4) If used instruments are ultrasoniced prior to being  
99 placed in the used instrument container, they shall be  
100 ultrasoniced and then rinsed under running hot water  
101 prior to being placed in the used instrument container.

102 (5) The ultrasonic unit shall be sanitized daily with a  
103 germicidal solution.

104 (6) If used instruments are not ultrasoniced prior to  
105 being placed in the used instrument container, they  
106 shall be kept in a germicidal or soap solution until brush  
107 scrubbed in hot water and soap, and then sterilized by  
108 autoclaving.

109 (7) All nondisposable instruments including the needle  
110 tubes shall be sterilized and shall be handled and stored  
111 in such a manner as to prevent contamination. Instru-  
112 ments to be sterilized shall be sealed in bags made  
113 specifically for the purpose of autoclave sterilization,  
114 and shall include the date of sterilization. If nontrans-  
115 parent sterilization bags are utilized, the bag shall also  
116 list the contents.

117 (8) Autoclave sterilization bags, with a color code  
118 indicator which changes color upon proper steam  
119 sterilization, shall be utilized during the autoclave  
120 sterilization process.

121 (9) Instruments shall be placed in the autoclave in  
122 such a manner as to allow live steam to circulate around  
123 them.

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

126 (f) After care of tattoo.

127 The completed tattoo shall be washed with a single use  
128 towel saturated with an antibacterial solution.

**§30-33-4. Facilities and equipment.**

1 (a) General physical environment.

2 (1) Tattoo studios shall have at least fifty footcandles  
3 of light and adequate ventilation. Walls and ceilings  
4 shall be painted a light color.

5 (2) The floor of the tattoo work room shall be  
6 constructed of impervious material. The floor shall be  
7 swept and wet mopped daily. Floors, walls, or ceilings  
8 shall not be swept or cleaned while tattooing is in  
9 operation.

10 (3) Convenient, clean, and sanitary toilet and hand-  
11 washing facilities shall be made accessible to customers.

12 (4) The building and equipment shall be maintained  
13 in a state of good repair at all times. The studio premises  
14 shall be kept clean, neat and free of litter and rubbish.

15 (b) Work room.

16 (1) Each tattoo studio shall have a work room separate  
17 from a waiting room or any room or rooms used for any  
18 other purpose. The work room shall not be used as a  
19 corridor for access to other rooms. Patrons or customers  
20 shall be tattooed only in the work room.

21 (2) The work room shall be equipped with hot and cold  
22 running water, with one sink or basin per artist  
23 operating at the same time.

24 (3) The sinks and basins shall be for the exclusive use  
25 of the tattoo artists for washing their hands and  
26 preparing customers for tattooing. They shall be  
27 equipped with foot, wrist or single lever action controls,  
28 soap, a germicidal solution, single use towels and  
29 individual hand brushes clean and in good repair for  
30 each tattoo artist. All plumbing shall be in compliance  
31 with industry standards.

32 (4) Persons may not consume any food or drink nor  
33 smoke in the work room.



**§30-33-5. Disposal of waste.**

1 The tattoo studio operator shall comply with rules  
2 promulgated by the commissioner of the bureau of  
3 public health regarding the disposal of medical wastes.

**§30-33-6. Registration requirements; inspections by local  
or regional boards of health; permit fees.**

1 (a) Tattoo studios in West Virginia shall obtain a West  
2 Virginia business registration certificate and shall  
3 register with their local or regional board of health.

4 (b) Each local or regional board of health shall  
5 conduct annual inspections of each tattoo studio to  
6 determine compliance with this article. Every person,  
7 firm or corporation operating a tattoo studio in West  
8 Virginia shall apply to their local or regional board of  
9 health for such inspection. The local or regional boards  
10 of health shall attempt to conduct such inspections  
11 within ten days of the receipt of the request for  
12 inspection: *Provided*, That if it is impracticable for the  
13 local or regional board of health to conduct the investi-  
14 gation within ten days after receiving such application  
15 the boards may issue to such applicant a temporary  
16 operating permit which shall be valid for thirty days or  
17 until a regular inspection is made, whichever occurs  
18 first.

19 (c) Upon a determination by the inspecting authority  
20 that any tattoo studio is not in compliance with the  
21 provisions of this article, the inspection authority shall  
22 have the power to order the tattoo studio to cease  
23 operations until such time as the inspecting authority  
24 determines that said studio is in compliance.

25 (d) Upon a determination by the inspecting authority  
26 that the tattoo studio is in compliance with the provi-  
27 sions of this article there shall be issued to said studio  
28 an operating permit that shall be posted in a conspic-  
29 uous place, clearly visible to the general public.

30 (e) The fee for the issuance of an operating permit  
31 issued pursuant to this article shall be two hundred  
32 dollars; and shall be paid by the tattoo studio receiving  
33 such permit. The fee shall be collected by and paid to

34 the local or regional boards of health.

**§30-33-7. Violations and penalties.**

1 Any owner of a tattoo studio who does not obtain a  
2 West Virginia business registration certificate, who does  
3 not register with their local or regional board of health,  
4 or who fails to request an inspection pursuant to section  
5 six shall be guilty of a misdemeanor, and, upon  
6 conviction thereof, for a first offense, the owner may  
7 have all of the tattoo equipment and paraphernalia  
8 confiscated and shall be fined one hundred dollars. For  
9 a second offense, which is a misdemeanor, the owner  
10 may have all of the tattoo equipment and paraphernalia  
11 confiscated and shall be fined not less than five hundred  
12 dollars nor more than one thousand dollars or be jailed  
13 for not less than ten days nor more than one year, or  
14 in the discretion of the court, by both such fine and  
15 imprisonment. For a third offense, which is a misdemea-  
16 nor, the owner shall have all the tattoo equipment and  
17 paraphernalia confiscated, shall be fined not less than  
18 one thousand dollars nor more than five thousand  
19 dollars, or be jailed not less than thirty days nor more  
20 than one year, or, in the discretion of the court, by both  
21 such fine and imprisonment.

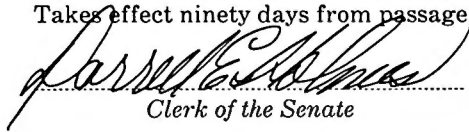
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled

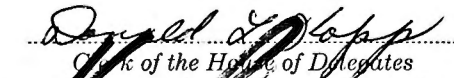
  
.....  
Chairman Senate Committee

  
.....  
Ernest C. Moore  
Chairman House Committee


Originating in the House.

Takes effect ninety days from passage

  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker of the House of Delegates

The within is approved this the 3rd  
day of May, 1993.

  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date

4/22/93

Time

11:36 am