WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993

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ENROLLED

Com. Sub. for
HOUSE BILL No. 2565...

(By Delegate Ryan, Mezzatesta, and Nicol)

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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-
restricted circulation of fresh air throughout the tattoo
studio and the expulsion of foul or stagnant air.

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

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

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

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

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

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

§30-33-2. Studio sanitation.

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

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

(c) Bulk single use articles shall be commercially
packaged and handled in such a way as to protect them
from contamination. Storage of single use articles shall not be in toilet rooms or in vestibules of toilet rooms nor under nonpotable water lines or exposed sewer lines.

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

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

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

§30-33-3. 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 procedure being performed and shall include the patron’s name and signature, address, age, date tattooed, design of the tattoo, location of the tattoo on the patron’s body, and the name of the tattoo artist who performed the work.

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

(4) Before tattoo administration, the owner or tattoo artist shall discuss with the patron the risks involved in the tattoo requested and the possible complications,
which shall be entered in the record.

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

(b) Consent.

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

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

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

(c) Tattooing procedures.

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

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

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

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

(5) Before working on each patron, the fingernails and hands of the tattoo artist shall be thoroughly washed and scrubbed with hot running water, antibacterial soap, and an individual hand brush that is clean and in good repair.
53  (6) The tattoo artist's hands shall be air blown dried  
or dried by a single use towel. In addition, disposable  
latex examination gloves shall be worn during the tattoo  
process. The gloves shall be changed each time there is  
an interruption in the tattoo application, the gloves  
become torn or punctured, or whenever their ability to  
function as a barrier is compromised.

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

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

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

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

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

60  (d) Dyes or pigments.

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

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

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

67  (e) Sterilization of needles.

68  (1) A set of individual, sterilized needles shall be used  
for each patron.
(2) No less than twenty-four sets of sterilized needles and tubes shall be on hand for the entire day or night operation. Unused sterilized instruments shall be resterilized at intervals of no more than six months from the date of the last sterilization.

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

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

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

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

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

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

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

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

(f) After care of tattoo.
The completed tattoo shall be washed with a single use towel saturated with an antibacterial solution.

§30-33-4. Facilities and equipment.

(a) General physical environment.

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

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

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

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

(b) Work room.

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

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

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

(4) Persons may not consume any food or drink nor smoke in the work room.
§30-33-5. Disposal of waste.

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

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

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

(b) Each local or regional board of health shall conduct annual inspections of each tattoo studio to determine compliance with this article. Every person, firm or corporation operating a tattoo studio in West Virginia shall apply to their local or regional board of health for such inspection. The local or regional boards of health shall attempt to conduct such inspections within ten days of the receipt of the request for inspection: Provided, That if it is impracticable for the local or regional board of health to conduct the investigation within ten days after receiving such application the boards may issue to such applicant a temporary operating permit which shall be valid for thirty days or until a regular inspection is made, whichever occurs first.

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

(d) Upon a determination by the inspecting authority that the tattoo studio is in compliance with the provisions of this article there shall be issued to said studio an operating permit that shall be posted in a conspicuous place, clearly visible to the general public.

(e) The fee for the issuance of an operating permit issued pursuant to this article shall be two hundred dollars; and shall be paid by the tattoo studio receiving such permit. The fee shall be collected by and paid to
§30-33-7. Violations and penalties.

Any owner of a tattoo studio who does not obtain a West Virginia business registration certificate, who does not register with their local or regional board of health, or who fails to request an inspection pursuant to section six shall be guilty of a misdemeanor, and, upon conviction thereof, for a first offense, the owner may have all of the tattoo equipment and paraphernalia confiscated and shall be fined one hundred dollars. For a second offense, which is a misdemeanor, the owner may have all of the tattoo equipment and paraphernalia confiscated and shall be fined not less than five hundred dollars nor more than one thousand dollars or be jailed for not less than ten days nor more than one year, or in the discretion of the court, by both such fine and imprisonment. For a third offense, which is a misdemeanor, the owner shall have all the tattoo equipment and paraphernalia confiscated, shall be fined not less than one thousand dollars nor more than five thousand dollars, or be jailed not less than thirty days nor more than one year, or, in the discretion of the court, by both 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

Speaker of the House of Delegates

President of the Senate

Speaker of the House of Delegates

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

Governor