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LEGISLATIVE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



ENROLLED

House Bill No. 4012

(By Delegate Linch)



Passed March 11, 2000

In Effect Ninety Days from Passage

19990000

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ENROLLED

H. B. 4012

(BY DELEGATE LINCH)

[Passed March 11, 2000; in effect ninety days from passage.]

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article thirty-six, relating to regulating the body piercing studio business; definitions; requiring registration of body piercing studios; requiring inspection of body piercing studios by local boards of health; requiring operating permits; power of local board of health to order studio to close; legislative rules; general physical requirements; record keeping; written notification of risks and minimum age requirements; body piercing procedures; permitting requirements; fees; limitations and prohibitions of certain procedures; report to the Legislature on permanent body alteration activities; and establishing fines and criminal penalties for certain violations.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen 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-six, to read as follows:

ARTICLE 36. BODY PIERCING STUDIO BUSINESS.

§16-36-1. Short title.

1 This article is known as the “Body Piercing Studio Act.”

§16-36-2. Definitions.

1 (a) “Adequate ventilation” means a free and unrestricted
2 circulation of fresh air throughout the body piercing studio and
3 the expulsion of foul or stagnant air.

4 (b) “Antimicrobial solution” means any solution used to
5 retard the growth of microorganisms.

6 (c) “Body piercing” means to puncture the skin for the
7 purpose of creating a hole to be decorated or adorned, but does
8 not include the use of a mechanized, presterilized ear-piercing
9 system that penetrates the outer perimeter or lobe of the ear or
10 both.

11 (d) “Body piercing studio” means any room or space where
12 body piercing is practiced or where the business of body
13 piercing or any part thereof is conducted.

14 (e) “Operator” means any person who is registered with the
15 state to operate, control or manage a body piercing studio, and
16 whose studio has been issued an operating permit by the local
17 board of health.

18 (f) “Single use” means products, instruments or items that
19 are used one time on one client and then properly disposed of
20 in accordance with rules of the department of health and human
21 resources regarding the disposal of medical wastes.

22 (g) “Standard precautions” means that all blood and body
23 fluids are treated so as to contain all blood-borne pathogens and
24 all proper precautions are taken to prevent the spread of any
25 blood-borne pathogens.

26 (h) "Technician" means an individual who engages in the
27 practice of body piercing.

**§16-36-3. Registration requirements; inspections by local boards
of health; posting of permit; power of local board
of health to order studio to close.**

1 (a) On or after the first day of July, two thousand one, any
2 body piercing studio in West Virginia shall obtain a West
3 Virginia business registration certificate and shall register with
4 the local board of health, request an inspection of the facility,
5 and obtain an operating permit before engaging in the business
6 of body piercing.

7 (b) Each local board of health shall conduct annual inspec-
8 tions of body piercing studios to determine compliance with
9 this article.

10 (c) Upon a determination by the board that the body
11 piercing studio is in compliance with the provisions of this
12 article, the board shall issue to the body piercing studio an
13 operating permit, which shall be posted in a conspicuous place
14 in the body piercing studio, clearly visible to the general public.

15 (d) Upon a determination by the board that any body
16 piercing studio is not in compliance with the provisions of this
17 article, or the rules promulgated hereunder, the board may order
18 the body piercing studio to cease operations until such time as
19 the board determines that the body piercing studio is in compli-
20 ance.

21 (e) Nothing in this article may be construed as prohibiting
22 any health care provider licensed under chapter thirty of this
23 code from performing any action within the scope of his or her
24 practice, or as restricting the lawful practice of medicine or
25 surgery in this state.

§16-36-4. Rules to be proposed by the department of health and human resources.

1 (a) On or before the first day of July, two thousand, the
2 department of health and human resources shall propose rules
3 for legislative approval in accordance with the provisions of
4 article three, chapter twenty-nine-a of this code, which rules
5 shall provide at a minimum:

6 (1) General physical requirements for facilities and equip-
7 ment, including requirements for adequate ventilation and
8 lighting;

9 (2) Record keeping requirements and forms;

10 (3) Written notification of the risks of body piercing
11 procedures and minimum age requirements;

12 (4) Body piercing procedures, including, but not limited to,
13 safety and sterilization procedures; the use of antimicrobial
14 solutions, needles, single use instruments and other instruments;
15 the exercise of standard precautions; and instructions on the
16 care of the skin after body piercing procedures;

17 (5) Permitting requirements for operators and technicians,
18 including fees for permits and renewals of permits sufficient to
19 cover the costs of inspecting facilities and administering this
20 article; and

21 (6) For the disposal of waste in compliance with the rules
22 of the department of health and human resources regarding the
23 disposal of medical wastes.

24 (b) The rules required by this section may also include
25 provisions on training or educational requirements or materials;
26 health screenings for technicians; and any other provisions
27 considered necessary to protect the public or assure adequate
28 health and safety.

29 (c) The rules may also include limitations or prohibitions
30 on the performance of certain procedures, including, but not
31 limited to, procedures referred to as cutting, branding and
32 scarification, which are identified as posing a risk to the public
33 health and safety.

34 (d) Before the first day of December, two thousand, the
35 department shall report to the Legislature on permanent body
36 alteration activities, including, but not limited to, procedures
37 referred to as cutting, branding and scarification, and identify
38 those activities that pose a risk to the public health and safety,
39 and report its recommendations for legislation.

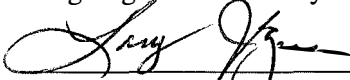
§16-36-5. Violations and penalties.

1 (a) Any owner of a body piercing studio who does not
2 obtain a West Virginia business registration certificate, who
3 does not register with the local board of health, or who fails to
4 request an inspection pursuant to section three of this article is
5 guilty of a misdemeanor and, upon conviction thereof, for a first
6 offense, may have all of the body piercing equipment and
7 paraphernalia confiscated and shall be fined one hundred
8 dollars.

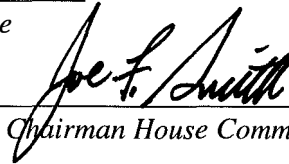
9 (b) For a second offense, which is a misdemeanor, the
10 owner may have all of the body piercing equipment and
11 paraphernalia confiscated and shall be fined not less than five
12 hundred dollars nor more than one thousand dollars or be
13 imprisoned in the county or regional jail for not less than ten
14 days nor more than one year, or both fined and imprisoned.

15 (c) For a third offense, which is a misdemeanor, the owner
16 shall have all the body piercing equipment and paraphernalia
17 confiscated, shall be fined not less than one thousand dollars
18 nor more than five thousand dollars, or be imprisoned in the
19 county or regional jail not less than thirty days nor more than
20 one year, or both fined and imprisoned.

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



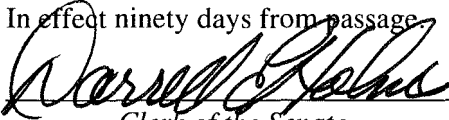
Chairman Senate Committee
MEMBER



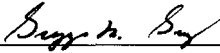
Chairman House Committee

Originating in the House.

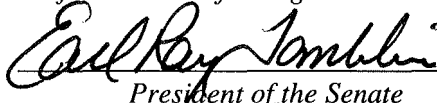
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

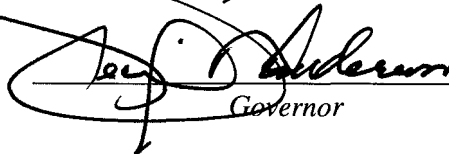


President of the Senate



Speaker of the House of Delegates

The within approved this the 20th
day of March, 2000.



Governor

PRESENTED TO THE

GOVERNOR

Date

3/16/00

Time

12:25p