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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2001

ENROLLED

SENATE BILL NO. 268

(By Senators Bowman, Bailey & Minear)

PASSED March 30, 2001

In Effect July 1, 2001 ~~Passage~~

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Senate Bill No. 268

(BY SENATORS BOWMAN, BAILEY AND MINEAR)

[Passed March 30, 2001; to take effect July 1, 2001.]

AN ACT to repeal article thirty-three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend chapter sixteen of said code by adding thereto a new article, designated article thirty-eight, relating to the tattoo studio business.

Be it enacted by the Legislature of West Virginia:

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article thirty-three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that chapter sixteen of said code be amended by adding thereto a new article, designated article thirty-eight, to read as follows:

ARTICLE 38. TATTOO STUDIO BUSINESS.

§16-38-1. Definitions.

- 1 (a) "Adequate ventilation" means a free and unre-
- 2 stricted 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 eighteen
5 years.

6 (c) "Tattoo" means to mark or color the skin by pricking
7 in coloring matter so as to form indelible marks or figures
8 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 or
11 any part thereof is conducted.

12 (e) "Antibacterial solution" means any solution used to
13 retard the growth of bacteria approved for application to
14 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.

§16-38-2. Studio sanitation.

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

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

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

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

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

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

§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
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, which
17 shall be entered in the record;

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

21 (b) *Consent.* –

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

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

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

30 (c) *Tattooing procedures.* –

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

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

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

39 (4) Tattoo artists who are experiencing diarrhea,
40 vomiting, fever, rash, productive cough, jaundice, draining
41 or open skin infections such as boils which could be
42 indicative of more serious conditions such as, but not

43 limited to, impetigo, scabies, hepatitis-b, HIV or AIDS
44 shall refrain from tattooing activities until such time as
45 they are no longer experiencing or exhibiting the afore-
46 mentioned symptoms;

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

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

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

60 (8) Immediately prior to beginning the tattoo procedure,
61 the affected skin area shall be treated with an antibacte-
62 rial solution;

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

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

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

74 (d) *Dyes or pigments.* -

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

78 (2) After tattooing, the unused dye or pigment in the
79 single-use containers shall be discarded along with the
80 container;

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

84 (e) *Sterilization of needles.* –

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

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

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

96 (4) If used instruments are ultrasonically cleaned prior
97 to being placed in the used instrument container, they
98 shall be ultrasonically cleaned and then rinsed under
99 running hot water prior to being placed in the used
100 instrument container;

101 (5) The ultrasonic unit shall be sanitized daily with a
102 germicidal solution;

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

108 (7) All nondisposable instruments, including the needle
109 tubes, shall be sterilized and shall be handled and stored
110 in such a manner as to prevent contamination. Instru-
111 ments to be sterilized shall be sealed in bags made specifi-
112 cally for the purpose of autoclave sterilization and shall
113 include the date of sterilization. If nontransparent steril-
114 ization bags are utilized, the bag shall also list the con-
115 tents;

116 (8) Autoclave sterilization bags, with a color code
117 indicator which changes color upon proper steam steriliza-
118 tion, shall be utilized during the autoclave sterilization
119 process;

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

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

124 (f) *Aftercare of tattoo.* –

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

§16-38-4. Facilities and equipment.

1 (a) *General physical environment.* –

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

5 (2) The floor of the tattoo workroom shall be con-
6 structed of impervious material. The floor shall be swept
7 and wet-mopped daily. Floors, walls or ceilings shall not
8 be swept or cleaned while tattooing is in operation;

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

12 (4) The building and equipment shall be maintained in
13 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) *Workroom.* –

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

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

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

31 (4) Persons may not consume any food or drink nor
32 smoke in the workroom.

§16-38-5. Disposal of waste.

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

§16-38-6. 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 register
3 with their local or regional board of health.

4 (b) Each local or regional board of health shall conduct
5 annual inspections of each tattoo studio to determine

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

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

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

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

§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 shall be guilty of a misdemeanor and, upon convic-
6 tion thereof, for a first offense, may have all of the tattoo

7 equipment and paraphernalia confiscated and shall be
8 fined one hundred dollars. For a second offense, which is
9 a misdemeanor, the owner may have all of the tattoo
10 equipment and paraphernalia confiscated and shall be
11 fined not less than five hundred dollars nor more than one
12 thousand dollars or confined in a county or regional jail
13 not less than ten days nor more than one year, or both
14 fined and imprisoned. For a third offense, which is a
15 misdemeanor, the owner shall have all the tattoo equip-
16 ment and paraphernalia confiscated, shall be fined not less
17 than one thousand dollars nor more than five thousand
18 dollars, or confined in a county or regional jail not less
19 than thirty days nor more than one year, or both fined and
20 imprisoned.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

Takes effect July 1, 2001.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within is approved this the 10th
Day of April, 2001.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

4/9/01

Time

2:08 pm