

**FIRST ENGROSSMENT  
with Conference Committee Amendments****ENGROSSED SENATE BILL NO. 2352**

Introduced by

Senators Wanzek, J. Lee, Robinson, Wardner

Representatives Headland, Hunskor

1 A BILL for an Act to create and enact a new section to chapter 12.1-31 of the North Dakota  
2 Century Code, relating to limitations on tattooing, branding, subdermal implantation, scarifying,  
3 and body piercing of minors; to amend and reenact the new section to chapter 23-01 of the  
4 North Dakota Century Code as created by section 1 of House Bill No. 1505, as approved by the  
5 sixtieth legislative assembly, relating to the regulation of tattooing, body piercing, branding,  
6 subdermal implants, and scarification; and to provide a penalty.

**7 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1.** A new section to chapter 12.1-31 of the North Dakota Century Code is  
9 created and enacted as follows:

**10 Tattooing, branding, subdermal implants, scarifying, and piercing - Minors.**

11 1. As used in this section:

12 a. "Brand" means the use of heat, cold, or any chemical compound to imprint  
13 permanent markings on an individual's skin.

14 b. "Pierce" means the puncture of any part of an individual's body to insert  
15 studs, pins, rings, chains, or other jewelry or adornment.

16 c. "Scarify" means to cut, tear, or abrade an individual's skin for the purpose of  
17 creating a permanent mark or design on the skin.

18 d. "Subdermal implant" means to insert a foreign object beneath the skin to  
19 decorate an individual's body.

20 e. "Tattoo" means to mark the skin of an individual by insertion of permanent  
21 colors through puncture of the skin.

22 2. It is a class B misdemeanor for a person, other than a licensed health care  
23 professional acting within that professional's scope of practice, to tattoo, brand,  
24 subdermal implant, scarify, or pierce an individual who is under eighteen years of

1           age unless the tattooing, branding, subdermal implanting, scarifying, or piercing  
2           takes place in the presence of and with the written consent of the individual's  
3           parent or legal guardian.

4           3. It is a class B misdemeanor for a person to sell, trade, or otherwise provide  
5           materials or kits for tattooing, self-tattooing, branding, self-branding, scarifying,  
6           self-scarifying, subdermal implanting, self-subdermal implanting, body piercing, or  
7           self-body piercing to an individual who is under eighteen years of age.

8           4. A political subdivision may enact and enforce an ordinance restricting tattooing,  
9           branding, subdermal implanting, scarifying, and piercing or restricting the sale of  
10           tattooing, branding, subdermal implanting, scarifying, and piercing materials and  
11           kits if the ordinance is equal to or more stringent than this section.

12           **SECTION 2. AMENDMENT.** The new section to chapter 23-01 of the North Dakota  
13 Century Code as created by section 1 of House Bill No. 1505, as approved by the sixtieth  
14 legislative assembly, is amended and reenacted as follows:

15           **Tattooing, body piercing, branding, subdermal implants, and scarification -**  
16 **Permit - Fee - Adoption of rules - Exemptions - Injury reports.**

17           1. A person may not operate a facility providing tattooing, body piercing, branding,  
18 subdermal implant, ~~and~~ or scarification services without a permit issued by the  
19 department under this section. The holder of a permit shall display the permit in a  
20 conspicuous place at the facility for which the permit is issued. A permit issued  
21 under this section expires annually. An applicant for a permit shall submit an  
22 application for a permit to the department, on a form provided by the department,  
23 with a permit fee established by the department. The application must include the  
24 name and complete mailing address and street address of the facility and any  
25 other information reasonably required by the department for the administration of  
26 this section.

27           2. The health council shall adopt rules to regulate any person that receives  
28 compensation for engaging in the practice of tattooing, body piercing, branding,  
29 subdermal implants, or scarification. The rules must establish health and safety  
30 requirements and limitations with respect to the age of an individual who may

- 1 receive a tattoo, body piercing, or scarification and may prohibit any practice that  
2 the health council deems unsafe or a threat to public health.
- 3 3. A facility is exempt from subsection 1 if the facility provides body piercing that is  
4 limited to the piercing of the noncartilaginous perimeter or lobe of the ear and the  
5 facility does not provide tattooing, branding, scarification, or subdermal implants.  
6 A person is exempt from regulation under subsection 2 if the person's practice  
7 under this section is limited to piercing of the noncartilaginous perimeter or lobe of  
8 the ear. A licensed health care professional acting within that professional's scope  
9 of practice and the associated medical facility are exempt from this section.
- 10 4. If a customer of a facility regulated under this section reports to the facility an injury  
11 the customer or operator of the facility believes to have resulted from the tattooing,  
12 body piercing, branding, subdermal implanting, or scarification provided at the  
13 facility, the operator of the facility shall provide the customer with written  
14 information on how to report the alleged injury to the state department of health. If  
15 a licensed health care professional treats a patient for an injury the professional  
16 determines, in the exercise of professional judgment, occurred as a result of a  
17 service regulated under this section, the professional shall report the  
18 circumstances to the state department of health. A licensed health care  
19 professional is immune from liability for making or not making a report under this  
20 subsection.
- 21 5. The fees established by the department must be based on the cost of conducting  
22 routine and complaint inspections and enforcement actions and preparing and  
23 sending license renewals. Fees collected under this section must be deposited in  
24 the department's operating fund in the state treasury and any expenditure from the  
25 fund is subject to appropriation by the legislative assembly. The department shall  
26 waive all or a portion of the fee for any facility that is subject to local jurisdiction.