

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1505

2007 HOUSE HUMAN SERVICES

HB 1505

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1505

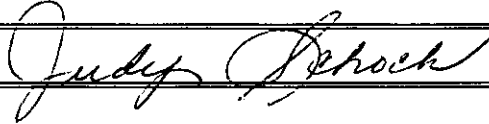
House Human Services Committee

Check here for Conference Committee

Hearing Date: January 23

Recorder Job Number: 1623

Committee Clerk Signature



Minutes:

Chairman Price: We will open HB 1505.

Representative Dan Ruby, District 38 in Minot: HB 1505 is a product from an email I received on something that is scary. It deals with the term scarification. There is nothing in the code dealing with tattooing. I am not aware of what the requirements the health department has on regulating tattoo parlors. What worries me is going from tattoo parlors to a new thing dealing with scarification. I think this is somewhat dealing with minor surgery. I think this would be very dangerous and potential for infections. We could work on the language. This bill was drafted quickly. I have prohibited my children from tattoos as long as they live in my house. I always prefer parents having say over the government. I would rather no one under 18 so they would be considered an adult. Tattoos are permanent.

Sophia Preszler, District 35 from Bismarck, ND: See attached testimony along with other materials. I was repeatedly driven from the mall at Northbrook even though I was not in the tattooing establishment. I was not able to negotiate with them. We need to go beyond parental consent. We need a law in place to protect total population.

Justin Marter, owner of a tattooing establishment: Bismarck has an ordinance, Mandan does not. It is not state wide. It varies from county to county. Most states are 18 or over. We

do tattoo minors 16 and 17 with parental consent. If you say no to minors, they will find a way, such as out of homes which are a concern to us. Mandan's health has no rules or regulations what so ever. We have seen many infections. I defiantly think there should be a state wide law for age group. I believe there are 2 states that have 18 and over. I believe the other states are 16 and 17. Flesh cutting is not tattooing. It would be fine by me if you put a ban on branding and flesh cutting. Sub dermal implants, is almost like a piercing with like Teflon beads placed just under the skin, with a pouch incision. They than tape the edges shut. Once it heals it is left there. You can not take it in and out. There is branding being done in Fargo, and Grand Forks area. The branding that is being done is being done correctly. It is set up in a separate room with its own ventilation, exhaust fan and lighting. It is kept completely separate. They are in their guide lines. There is no standardized testing for piercing or tattooing. We are inspected and have a 75.00 fee.

Kenan Bullinger, Director of the Division of food and Lodging for the ND Department of Health: See attached testimony and I will leave testimony from **Keith Johnson** who is unable to be here. We have memorandums with all departments MOU's. We would accept theirs.

Chairman Price: Any other testimony on HB1505? If not we will close HB 1505

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1505

House Human Services Committee

Check here for Conference Committee

Hearing Date: January 24, 2007

Recorder Job Number: 1856

Committee Clerk Signature

Judy Schock

Minutes:

Chairman Price: We will take out HB 1505.

Committee discusses: We wanted to outlaw scarification and implants. Some direction is given to piercing belly button etc. over the internet. Do we charge them with a class B misdemeanor? What about branding, and freezing? The difference in branding is it is taken from the outside in and implantation is taken place from the inside out. We had David Peske did some research, and he said none of this is considered medical. It is not considered a surgical procedure. There are religious things that go on with scaring, branding, tattooing and implantation, such as the Sundance ceremony. Committee can't agree if implants should be banned or not. We should use the same language we did on the tanning. A lot of the is offensive to use but we should also address the fees.

Representative Kaldo moves a do pass as amended, seconded by **Representative Porter** all were in favor. **Representative Damschen** moves a do pass as amended, **Representative Schneider** seconds the motion. Vote was 10 yeas 1 nay and 1 absent. **Representative Kaldor** will carry to the floor.

FISCAL NOTE
 Requested by Legislative Council
 03/09/2007

Amendment to: Engrossed
 HB 1505

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$9,551		\$4,234	
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill requires the Health Council to adopt rules to regulate any person that received compensation for engaging in the practice of tattooing, body piercing, or scarification.

The amendment allows the department to collect the fees and deposit them in our operating fund.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The rules are to establish health and safety requirements and limitations to the age of an individual who may receive these services and prohibit any practice that is determined to be unsafe or a threat to public health. While there is no mention of inspections within the proposed legislation, there is no way to enforce the provisions in this bill without inspection of the services provided. The costs included in this fiscal note include staff time for rules development and inspection of approximately 20 practices of these services annually. Ear piercing was not included as body piercing and the number would need to be adjusted if the intent is to include ear piercing. It is also assumed that the cities and counties that are currently regulating these individuals would continue to do so rather than the department of health. If the department is given the authority to collect fees and place them in our operating fund, the cost of the project could be other funds rather than general funds.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The fee for licensure of these individuals is not addressed in this bill and therefore would need to be determined. A determination would also need to be made if the revenue would need to be sufficient to cover the entire costs of rules development and implementation of the requirements.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

During the 2007-2009 biennium, it is anticipated that it will take approximately 340 hours of staff time for rules development and implementation and public hearing costs. It is anticipated that the costs during the 2007-2009 biennium would be \$9,551.

As development will occur prior to the 2009-2011 biennium, it is anticipated that the expenditures for ongoing operation of this program will be less at approximately \$4,234 for the biennium.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Funds for this project are not included in the Department's Appropriation bill (HB 1004). The department would need these funds appropriated to carry out these responsibilities.

Name:	Kathy J. Albin	Agency:	Health Department
Phone Number:	328.4542	Date Prepared:	03/09/2007

FISCAL NOTE
 Requested by Legislative Council
 01/31/2007

Amendment to: HB 1505

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$9,551		\$4,234	
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill requires the Health Council to adopt rules to regulate any person that received compensation for engaging in the practice of tattooing, body piercing, or scarification.

The amendment to this bill will not change the impact of the fiscal note.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The rules are to establish health and safety requirements and limitations to the age of an individual who may receive these services and prohibit any practice that is determined to be unsafe or a threat to public health. While there is no mention of inspections within the proposed legislation, there is no way to enforce the provisions in this bill without inspection of the services provided. The costs included in this fiscal note include staff time for rules development and inspection of approximately 20 practices of these services annually. Ear piercing was not included as body piercing and the number would need to be adjusted if the intent is to include ear piercing. It is also assumed that the cities and counties that are currently regulating these individuals would continue to do so rather than the department of health. If the department is given the authority to collect fees and place them in our operating fund, the cost of the project could be other funds rather than general funds.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The fee for licensure of these individuals is not addressed in this bill and therefore would need to be determined. A determination would also need to be made if the revenue would need to be sufficient to cover the entire costs of rules development and implementation of the requirements.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

During the 2007-2009 biennium, it is anticipated that it will take approximately 340 hours of staff time for rules development and implementation and public hearing costs. It is anticipated that the costs during the 2007-2009 biennium would be \$9,551.

As development will occur prior to the 2009-2011 biennium, it is anticipated that the expenditures for ongoing operation of this program will be less at approximately \$4,234 for the biennium.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Funds for this project are not included in the Department's Appropriation bill (HB 1004). The department would need these funds appropriated to carry out these responsibilities.

Name:	Kathy J. Albin	Agency:	Health
Phone Number:	328.4542	Date Prepared:	01/31/2007

FISCAL NOTE
Requested by Legislative Council
01/16/2007

Bill/Resolution No.: HB 1505

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$9,551		\$4,234	
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill requires the Health Council to adopt rules to regulate any person that received compensation for engaging in the practice of tattooing, body piercing, or scarification.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The rules are to establish health and safety requirements and limitations to the age of an individual who may receive these services and prohibit any practice that is determined to be unsafe or a threat to public health. While there is no mention of inspections within the proposed legislation, there is no way to enforce the provisions in this bill without inspection of the services provided. The costs included in this fiscal note include staff time for rules development and inspection of approximately 20 practices of these services annually. Ear piercing was not included as body piercing and the number would need to be adjusted if the intent is to include ear piercing. It is also assumed that the cities and counties that are currently regulating these individuals would continue to do so rather than the department of health. If the department is given the authority to collect fees and place them in our operating fund, the cost of the project could be other funds rather than general funds.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The fee for licensure of these individuals is not addressed in this bill and therefore would need to be determined. A determination would also need to be made if the revenue would need to be sufficient to cover the entire costs of rules development and implementation of the requirements.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

During the 2007-2009 biennium, it is anticipated that it will take approximately 340 hours of staff time for rules development and implementation and public hearing costs. It is anticipated that the costs during the 2007-2009 biennium would be \$9,551.

As development will occur prior to the 2009-2011 biennium, it is anticipated that the expenditures for ongoing operation of this program will be less at approximately \$4,234 for the biennium.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Funds for this project are not included in the Department's Appropriation bill (HB 1004). The department would need these funds appropriated to carry out these responsibilities.

Name:	Kathy J. Albin	Agency:	Health
Phone Number:	328.4542	Date Prepared:	01/22/2007

Date: 4/24
 Roll Call Vote #:

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES HB 1505 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken move amendment

Motion Made By Rep Kaldor Seconded By Rep. Porter

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman			Kari L Conrad		
Vonnie Pietsch - Vice Chairman			Lee Kaldor		
Chuck Damschen			Louise Potter		
Patrick R. Hatlestad			Jasper Schneider		
Curt Hofstad					
Todd Porter					
Gerry Uglem					
Robin Weisz					

Total (Yes) 11 "Click here to type Yes Vote" No 0 "Click here to type No Vote"

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 4/24
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES HB 1505 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass as Amended

Motion Made By Rep Damschen Seconded By Rep Schneider

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman	✓		Kari L Conrad		
Vonnie Pietsch - Vice Chairman	✓		Lee Kaldor	✓	
Chuck Damschen	✓		Louise Potter	✓	
Patrick R. Hatlestad	✓		Jasper Schneider	✓	
Curt Hofstad	✓				
Todd Porter	✓				
Gerry Uglem	✓				
Robin Weisz		✓			

Total (Yes) 10 "Click here to type Yes Vote" No 1 "Click here to type No Vote"

Absent _____

Floor Assignment Rep. Kaldor

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1505: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1505 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "adoption of rules by the health council to regulate" with "regulation of"

Page 1, line 3, after the comma insert "branding, subdermal implants,"

Page 1, line 7, after the second boldface underscored comma insert "**branding, subdermal implants,**", after "**scarification**" insert "**- Permit - Fee**", and after the boldface underscored period insert:

- Rep. Price*
- "1. A person may not operate a facility providing tattooing, body piercing, branding, subdermal implant, and scarification services without a permit issued by the department under this section. The holder of a permit shall display the permit in a conspicuous place at the facility for which the permit is issued. A permit issued under this section expires annually on June thirtieth. An applicant for a permit shall submit an application for a permit to the department, on a form provided by the department, with a permit fee established by the department. The application must include the name and complete mailing address and street address of the facility and any other information reasonably required by the department for the administration of this section.

2."

Page 1, line 9, after the second underscored comma insert "**branding, subdermal implants,**"

Renumber accordingly

2007 HOUSE APPROPRIATIONS

HB 1505

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1505

House Appropriations Committee

Check here for Conference Committee

Hearing Date: 2/6/07

Recorder Job Number: 2970

Committee Clerk Signature

Shelly N. Sand

Minutes:

Chairman Svedjan: We will be open the hearing for HB 1505.

Rep Price: HB 1505 came to us as a result to us as an email to Rep Ruby, mainly concerning scarification. Currently the tattoo and body art industry is regulated by local health units in some parts of the state but not in all parts of the state. Nine local health jurisdictions have adopted local ordinances in the tattoo and body art.

This is looking at the age and Health Council deems unsafe or a threat to the public. We started out prohibiting and branding sub-dermal implants and scarification in our committee. It ended up be amended to this bill. There is a Senate bill also SB 2352 that has to do with limitations on tattooing and body piercing of minors and has a penalty in it, which is a class B misdemeanor.

Rep Price did have an example of branding and implanting.

Chairman Svedjan: The only reason we have the bill is that it does have an affect on the agency expenditure of \$9,500. This is slightly over the threshold for re-referring it to us. This bill does not produce any revenue.

Rep Price: No it does not establish. What I honest seeing happening is that we are going to get the Senate bill and they are going to get our bill and we are going to merge the 2 bills and come up with a final product.

Rep Wald motioned for a Do Pass. Rep. Wieland seconded the motion. The motion carried by a roll call vote of 23 ayes, 0 nays and 1 absent and not voting. Rep. Kaldor was designated to carry the bill.

Date: 2/6/07
 Roll Call Vote #: 1 of 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1505

House Appropriations Full Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Dr. Pass

Motion Made By Wald Seconded By Wieland

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Representative Wald	✓		Representative Aarsvold	✓	
Representative Monson	✓		Representative Gulleson	✓	
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson	✓		Representative Glasheim	✓	
Representative Carlisle	✓		Representative Kroeber	✓	
Representative Skarphol	✓		Representative Williams	✓	
Representative Thoreson	✓				
Representative Pollert	✓		Representative Ekstrom	✓	
Representative Bellew	✓		Representative Kerzman	✓	
Representative Kreidt	✓		Representative Metcalf	✓	
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 23 No 0

Absent 1

Floor Assignment Kaldor

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 8, 2007 2:04 p.m.

Module No: HR-25-2566
Carrier: Kaldor
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1505, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)
recommends **DO PASS** (23 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed HB 1505 was placed on the Eleventh order on the calendar.

2007 SENATE HUMAN SERVICES

HB 1505

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1505

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 3-06-07

Recorder Job Number: 4452, 4494

Committee Clerk Signature

Mary R. Moxson

Minutes:

Chairman Senator J. Lee opened the hearing on HB 1505 relating to the regulation of tattooing, body piercing, branding, sub dermal implants, and scarification.

Representative Dan Ruby (District #38) introduced HB 1505 and testified in support of it.

This bill is the result of a constituent having concerns. This puts provisions in law for the Dept. of Health to regulate some of the tattooing and body piercing procedures. He showed pictures of scarification (attachment #1) that he felt borders on dealing with surgical procedures. He pointed out that to his knowledge scarification has not yet been done in ND. He also talked about branding and sub dermal implants. This bill addresses all of those processes.

Senator Dever said he didn't see a penalty.

Rep. Ruby replied that originally they just had a short version of putting it under the regulation of the health council. They did the amendments that changed this language so the current version is not what he devised. The details probably need some work.

Senator Warner pointed out that this was the .0200 version and asked if there were amendments before it was introduced.

Rep. Ruby replied that the first one was really general. Most was added in the House.

Senator Dever talked about inmates branding each other.

Kenan Bullinger (ND Dept. of Health) testified in favor of HB 1505. (Attachment #2)

He answered a question about penalties that was asked earlier. The penalties are addressed in SB 2352. Also addressed in that bill was to accept local jurisdiction if their ordinances were as stringent as state laws.

(Meter 15:10) Mr. Bullinger reported that his testimony included one concern they had about fees and he presented the committee with a wording to address this (attachment 2a).

The hearing on HB 1505 was recessed.

JOB #4494

Vice Chairman Senator Erbele brought the committee back to order and asked for additional testimony.

Karen Marter (Michael Jays Tattoo & Piercing Clinic) provided testimony in favor of HB 1505. (Attachment #3) She said they do not do any branding, sub dermal implants, and scarification. Senator Erbele asked if they knew of anybody in ND that does scarification.

Ms. Marter indicated they did not.

Senator Heckaman asked where a person goes if they get an infection after getting a tattoo.

Ms. Marter said they prefer the person goes back to them and went on to explain reasons it might have happened.

Senator Heckaman asked if a person getting a tattoo is given something to clean it with when they go home.

Ms. Marter said yes and explained.

Senator Dever asked if they still ask about tattoos when a person goes to donate blood.

Ms. Marter said they do.

Senator Warner asked Ms. Marter if they anticipated any losses of shops in the industry because of the regulation.

Ms. Marter said she was hoping those having shops in their homes will. That is what they want to see stopped.

Senator Pomeroy asked how many places would be licensed in ND.

Ms. Marter answered that there are not that many, maybe 4-5.

Senator Dever – Is there any type of state association?

Ms. Marter – No.

Senator Warner stated there is the potential for nerve damage in some cases of piercing which would come under a scope of practice issue. Health is going to deal mostly with sanitation.

Ms. Marter said the biggest problem of piercing are the piercing guns (meter 8:55).

Senator Erbele asked about the cost of the guns.

Ms. Marter replied that they are relatively inexpensive, probably under \$30.

Senator Erbele asked if they should only be used once because of the sanitation capabilities.

Ms. Marter explained that the guns initially came out for earlobes only and then people started using them for cartilage piercing. That can do damage (meter 10:00).

She told that a lot of states are banning the guns for anything other than earlobe piercing.

Senator Erbele as if it was by law they are banning then.

Ms. Marter said she believed so.

Senator Warner asked if it would be useful to amend this to ban guns or to let the rules process to ban them as an unsafe practice.

Ms. Marter said she would personally like to see them banned.

Senator Heckaman asked where the guns can be purchased.

Ms. Marter said they are in the piercing section of stores.

The hearing on HB 1505 was closed.

Discussion followed about possibly combining this with SB 2352 which is more about age restrictions. HB 1505 is more about regulation of the facility.

Proposed amendments about fees were discussed.

Senator Warner moved to accept the amendment offered by the health department dealing with fees.

The motion was seconded by Senator Heckaman.

Roll call vote 6-0-0. Amendment adopted.

After some discussion about banning piercing guns for anything other than earlobes it was decided not to do it at this point.

Senator Warner moved a Do Pass on HB 1505 as amended.

Senator Pomeroy seconded the motion.

Roll call vote 6-0-0. Motion carried. Carrier is Senator Warner.

Date: 3-6-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1505

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment dealing w/ fees

Motion Made By Sen. Warner Seconded By Sen. Heckaman

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair	✓		Senator Jim Pomeroy	✓	
Senator Dick Dever	✓		Senator John M. Warner	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3-6-07

Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1505

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass / amended / ~~pass~~

Motion Made By Sen. Warner Seconded By Sen. Pomeroy

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair	✓		Senator Jim Pomeroy	✓	
Senator Dick Dever	✓		Senator John M. Warner	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Warner -

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1505, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1505 was placed on the Sixth order on the calendar.

Page 1, after line 24, insert:

- "3. The fees established by the department must be based on the cost of conducting routine and complaint inspections and enforcement actions and preparing and sending license renewals. Fees collected under this section must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly. The department shall waive all or a portion of the fee for any facility that is subject to local jurisdiction."

Renumber accordingly

2007 HOUSE HUMAN SERVICES

CONFERENCE COMMITTEE

HB 1505

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1505

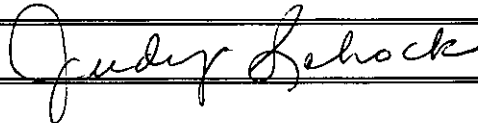
House Human Services Committee

Check here for Conference Committee

Hearing Date: April 4, 2007

Recorder Job Number: 5718

Committee Clerk Signature



Minutes:

Chairman Hofstad: Calls the meeting to order the roll was taken with all present **with Reps. Hofstad, Porter, Kaldor, and Sens. Dever, Erbele, and Heckaman.**

Representative Hofstad: asks the Senate side to explain the amendments they added.

Senator Dever: goes over the amendments done by the senate. How it allows the Department of Health to charge inspection fees.

Representative Porter: We are just concerned that the fee structure cost to be standard.

How many licensed places are there in the state, and are we leaving the fee wide open? Will the fee be so high the business will not be able to recoup. I don't have a problem with reasonable fees. (Hard to hear)

Senator Dever: Would it be alright if Mr. Bullinger answers that?

Kenan Bullinger, director of Division of Food lodging for the ND Department of Health:

The fees in State Health Department are set to recover costs. Many of the counties have their own ordinances and have established fees based on their own costs.

Representative Porter: What is left for the state to do?

Mr. Bullinger: We estimate 10-20, there are very few facilities not governed. That is why our fiscal note is fairly small.

Chairman Hofstad: Would you than have a MOU with these other entities.

Mr. Bullinger: We have a memorandum of understanding, and we envision a set of rules. If this legislation passes we would include tanning and tattoo. We would include the language for both of these new industries. They establish their own license fees. These pieces of legislation are very important.

Chairman Hofstad: Will you have any input into their fees, and will they be consistent?

Mr. Bullinger: That is a good question. No, they are not consistent. They generally need a little bit more money in fees. Their inspectors are paid a little higher than our state, so they need higher fees. The restaurants fees are all over the border. They also get more frequent inspections. So they get a bit more for their money. Restaurants have to be inspected every two years. The locals do it twice a year. They do get more for their money.

Representative Porter: Into tanning issue we will also be discussing, how many facilities do you think that is going to encompass? Do we have the same fee language in that piece of language that the Senate put into 1505?

Mr. Bullinger: We did include that language in the tanning bill which is HB 1154.

Representative Porter: From the stand point of what we are doing with the new areas, tattooing and tanning. With those two bills the way they are now are consistent with each other and the way things are currently done inside of your division?

Mr. Bullinger: Pretty much, fairly consistent. The establishment on one of these bills does talk about specific information on licensing and when they are due. Each local health unit does things on an annual basis. They may establish a different due date that June 30. In fact all except one of ours are on a calendar year. We can live with the way the bill is written.

Representative Porter: Those kind of areas as we are working through these bill, I think area important to us to make sure we are consistent and that we aren't creating an undue

implementation that passes onto you division. If everything else is December 31, I would like to stay consistent. Is there anything else inside that needs to be consistent with how your division is operating that we should be addressing?

Mr. Bullinger: The only thing is the ear piercing, and there was some discussion that it not be regulated. There is many doing ear piercing that do not do tattooing or scarification or implanting. I think all of the local ordinances now do prohibit anyone 18. We would want to be consistent with what the locals have. They do all exempt ear piercing, if done in the non cartilage part of the ear.

Senator Heckaman: Does it expire annually?

Mr. Bullinger: Yes, when ever it is annual, as long as they are licensed annually.

Representative Porter: I move that the House accede and further adopt amendment on page 1 line 13 to over strike June 30, seconded by **Representative Kaldor**.

The vote was taken with 6 yeas, 0 nays, and 0 absent. **Representative Hofstad** will carry the bill to the floor.

Mr. Bullinger: I just wanted to say the city of Fargo does not allow scarification. They have built that into their ordinance. I don't know what you folks feel about that.

Rep Porter: I think the next bill address that.

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1505 (, as (re)engrossed):

Date: 4/4/07

Your Conference Committee House Human Services

attend
For the Senate:

YES / NO

attend

For the House:

YES / NO

<u>Sen. Lewis</u>	<input checked="" type="checkbox"/>		<u>Rep. Hoagstad</u>	<input checked="" type="checkbox"/>	
<u>Sen. Erbele</u>	<input checked="" type="checkbox"/>		<u>Rep. Porter</u>	<input checked="" type="checkbox"/>	
<u>Sen. Heckman</u>	<input checked="" type="checkbox"/>		<u>Rep. Haldor</u>	<input checked="" type="checkbox"/>	

recommends that the (SENATE/HOUSE) (ACCEDE) to (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 982 - 983

and place 1505 on the Seventh order.

, adopt (further) amendments as follows, and place _____ on the Seventh order: p 1 line 13 over strike line 30

_____ having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: 4/4/06

CARRIER: Hoagstad

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Porter

SECONDED BY: Haldor

VOTE COUNT 6 YES 0 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1505, as engrossed: Your conference committee (Sens. Dever, Erbele, Heckaman and Reps. Hofstad, Porter, Kaldor) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ pages 982-983B, adopt further amendments as follows, and place HB 1505 on the Seventh order:

That the House accede to the Senate amendments as printed on page 983 of the House Journal and page 748 of the Senate Journal and that Engrossed House Bill No. 1505 be further amended as follows:

Page 1, line 13, remove "on June thirtieth"

Renumber accordingly

Engrossed HB 1505 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

HB 1505

11-23-07

House of Human Services

my name is Sophia Prezler. I am from District 35, here in Besmer, as many of you already know.

Please allow me to look at the situation of piercing and tattooing (P and T) of minors under the age of eighteen through the eye of the statesman. The statesman provides the citizen with what is best for the welfare of the citizen, not necessarily with what the citizen wants, and sees that the wrong doer is brought to justice, not provide the evil doer with more business. The statesman will not favor the parent or guardian above the population. He puts the parents, guardian and the P and T establishment under the law, even the

President and King are under the law. In

reality, we all were under the law: There is

anyone would P and T a minor he would

have to answer to the law. In the exception,

the law is reversed, the parent, guardian and

the P and T establishment become *in loco* and

the upright citizen becomes the trespasser,

the harasser, the criminal, the law

defends the evil doer at the expense

of the upright. The statesman sees that

a situation like this is corrected,

Does that make sense to you?

Any questions?

In your hands is the trespass order

that was issued to me 12-23-06 and other
material.

Sincerely,

Sophia Proglor

1725 N 5th Street

Bismarck, ND 58501

1-701-255-0269

Tattooing not a basic need

By SOPHIA PRESZLER
Bismarck

*Aug. 16
2006
Bismarck
Tribune*

It's amazing how much one finds out when looking at the "needs" and "wants" of humankind, as they relate to the citizenry and government.

Needs are basic to life. We can't live without them. Wants are frivolous. We can live nicely without them.

The wants of government and the citizenry are never satisfied. Wants will bankrupt any nation financially, morally and spiritually, and the needs of humankind still will be unmet.

Some of the wants of today are abortion, gambling, piercing and tattooing; the list is long.

I will use the piercing and tat-

tooning industry as an example, since it, of itself, is a business of wants.

But the same is true of every issue of life when society puts wants before needs.

The Bismarck ordinance on tattooing and piercing that undoubtedly will become the statute for the whole state of North Dakota is in error.

It has an exception that allows the parent to put the wants of the child above the child's needs by allowing the procedure.

In this situation, the child, the parent and the state become losers.

The city of Bismarck should delete the exception and simply say that the tattooing and body piercing of minors is prohibited. Other states have removed the exception from their law, and so should we.

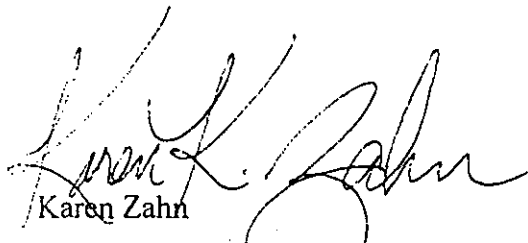
Order of Trespass
Dec. 23, 2005

GOLDMARK
PROPERTY MANAGEMENT INC. AMO*

Order of Trespass.

We at Goldmark Property Management hereby notify Sophia Preszler she is not to be on Professional Center Property located at 1929 N Washington Street.

Notice of this Trespass Order was served on 1:35pm on December 23, 2005.


Karen Zahn

Testimony

House Bill 1505

House Human Services Committee

Tuesday, January 23, 2007; 9 a.m.

North Dakota Department of Health

Good morning, Chairman Price and members of the House Human Services Committee. My name is Kenan Bullinger, and I am director of the Division of Food and Lodging for the North Dakota Department of Health. I am here today to provide information on House Bill 1505.

The tattoo and body art industry is currently regulated in some parts of the state by several local health units. In fact, at least nine local health jurisdictions have adopted local ordinances related to the tattoo and body art industry. The majority of the local ordinances are modeled after the National Environmental Health Association Body Art Model Code and Guidelines.

House Bill 1505 gives the State Health Council authority to establish rules to regulate the tattoo, body piercing and scarification industry. The bill is silent with regard to standards, licensure, fees and inspections.

It is important to note that regulations could address sanitary conditions and infection control, but would not evaluate acceptable standards of practice. In other words, the licensing and inspection of the tattoo and body art establishments would address public health issues such as sanitation and disease control, but not technique or outcomes. We are not aware of professional practice standards for this industry, and we would not have the expertise to evaluate compliance.

As is the case with licensed food and lodging facilities in our state, the balance of the establishments not licensed and inspected by local health units would likely be regulated by the North Dakota Department of Health. The fiscal impact of this legislation was difficult to calculate since the exact number of tattoo and body art facilities operating outside of local health unit jurisdictions in North Dakota is unknown. For fiscal note purposes, we estimated there are approximately 20 such facilities.

The costs of inspection and administrative rule adoption and implementation are the main components of the attached fiscal note. As mentioned in earlier testimony

relating to the tanning facility legislation, the regulatory infrastructure to carry out the provisions of this legislation is in place. That infrastructure includes the licensure and inspection of restaurants, lodging facilities, child-care centers, schools and grocery stores. The challenge will be the added inspection time, reports and travel needed to carry out the provisions of the legislation.

Since the bill is silent with regard to fees, the fiscal note was written assuming license fees would be established through the rulemaking process and deposited into the general fund, thus requiring a general fund appropriation to the department to implement this law. An alternative would be to establish this program similar to the food and lodging program, where fees are established in administrative rule, deposited to the Department of Health operating fund, and appropriated to the department to offset the costs of administering the program. Additional language authorizing this for the tattoo and body art industry would be needed.

This concludes my testimony. I am happy to answer any questions you may have.

HB1505
Testimony in Support
Keith Johnson
For the ND Environmental Health Assn.
January 23, 2007

The Environmental Health Association is an organization of professionals around the state, many of whom would eventually be given the responsibility of enforcing the rules that will be promulgated by the Health Council under the direction of this bill. We support its intention and believe it to be a necessary piece of legislation.

Body art is currently regulated by a number of local ordinances around the state that have been passed by local health departments in the absence of a state ordinance. A uniform state ordinance is preferable to a patchwork of local ones in this instance, both for the public good and for the good of the industry. Many areas of the state are not covered by an ordinance right now, if the local health department does not have an environmental health program. It follows logically that if an operator was poorer than average, he would locate in an area not covered by an ordinance. This is the problem for the public. For the industry, good tattoo artists much prefer to work in a well regulated, uniform environment, rather than a system where ignorance of the local law could result in their licensure being revoked.

We think that enforcement should be paid for, whether by inspection fees, or by funding of the program by fiscal note. It appears to me that the latitude to allow inspection fees is in the present bill.

Unregulated tattooing can result in horrendous infections. For that reason, it is necessary to regulate the industry. Most in the industry will agree with that assessment.

We urge passage of HB1505.

Keith Johnson, R.S.
701-667-3370 Ofc
701-870-1455 Cell
701-667-3371 Fax

kmjohnso@nd.gov

Testimony

House Bill 1505

Senate Human Services Committee

Tuesday, March 6, 2007; 11:15 a.m.

North Dakota Department of Health

Good morning, Chairman Lee and members of the Senate Human Services Committee. My name is Kenan Bullinger, and I am director of the Division of Food and Lodging for the North Dakota Department of Health. I am here today to provide information on House Bill 1505.

The tattoo and body art industry is currently regulated in some parts of the state by several local health units. In fact, at least nine local health jurisdictions have adopted local ordinances related to the tattoo and body art industry. The majority of the local ordinances are modeled after the National Environmental Health Association Body Art Model Code and Guidelines.

House Bill 1505 gives the State Health Council authority to establish rules to regulate the tattoo, body piercing and scarification industry. It is important to note that the model code and guidelines address sanitary conditions and infection control, but do not evaluate acceptable standards of practice. In other words, the licensing and inspection of the tattoo and body art establishments would address public health issues such as sanitation and disease control, but not technique or outcomes. We are not aware of professional practice standards for this industry, and we would not have the expertise to evaluate compliance.

As is the case with licensed food and lodging facilities in our state, the establishments not licensed and inspected by local health units would likely be regulated by the North Dakota Department of Health. The fiscal impact of this legislation was difficult to calculate since the exact number of tattoo and body art facilities operating outside of local health unit jurisdictions in North Dakota is unknown. For fiscal note purposes, we estimated there are approximately 20 such facilities. The costs of inspection and administrative rule adoption and implementation are the main components of the attached fiscal note.

As mentioned in earlier testimony relating to the tanning facility legislation, the regulatory infrastructure to carry out the provisions of this legislation is in place. That infrastructure includes the licensure and inspection of restaurants, lodging facilities,

child-care centers, schools and grocery stores. The challenge will be the added inspection time, reports and travel needed to carry out the provisions of the legislation.

The bill allows the department to establish a fee but does not provide the ability for the department to use the fees to cover expenses. In order to be consistent with the other activities licensed by the Division of Food and Lodging, language should be added to allow for deposit of fees to the Department of Health operating fund and any expenditure from the fund is subject to appropriation by the legislative assembly.

This concludes my testimony. I am happy to answer any questions you may have.

The fees established by the department must be based on the cost of conducting routine and complaint inspections, enforcement action, and preparing and sending license renewals. Fees collected pursuant to this chapter must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly. The department shall waive all or a portion of the fee for any facility that is subject to local jurisdiction.

We need more restrictive laws to fall under the rules of the State Health Dept. including requirement of certified and licensed tattooing. The tattoo and/or all piercing places must be licensed, clean, do regular spore testing and keep records of testing and results.

Myself and Karen, also known as Mom, are willing & interested in working with the State Health Dept. in the development of the rules & regulations.

This is our industry. We can share our training in knowing what is best for it and what can be done to make it safer. We are known as the leaders in the piercing & tattoo community in our state. We feel it is our responsibility and opportunity to use our knowledge and work with the State Health Department towards a common solution. We have the APP behind us for additional help or assistance. David Vidra, CLPN & Pres. of Health Educators Inc. and Health & Safety Chairman for the Society of Permanent Cosmetic Professionals, is also available to help answer questions. David provides training for the piercing & tattoo community as well as consulting for State Health Departments. This is the time to get as much of the right information as possible into the right hands so a reasonable law or rules can be made.

Effective regulations or rules force what is known as "hacks" to either shut down or compete at a higher level. This is necessary for the protection and safety of the public.

Thank you for your time.

Karen H. Marten
Justin Marten

Michael Jays



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P.S. APP stands for Association of Professional Piercers