

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

SENATE BILL NO. 2352
(Senators Wanzek, J. Lee, Robinson, Wardner)
(Representatives Headland, Hunskor)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. As used in this section:
 - a. "Brand" means the use of heat, cold, or any chemical compound to imprint permanent markings on an individual's skin.
 - b. "Pierce" means the puncture of any part of an individual's body to insert studs, pins, rings, chains, or other jewelry or adornment.
 - c. "Scarify" means to cut, tear, or abrade an individual's skin for the purpose of creating a permanent mark or design on the skin.
 - d. "Subdermal implant" means to insert a foreign object beneath the skin to decorate an individual's body.
 - e. "Tattoo" means to mark the skin of an individual by insertion of permanent colors through puncture of the skin.
2. It is a class B misdemeanor for a person, other than a licensed health care professional acting within that professional's scope of practice, to tattoo, brand, subdermal implant, scarify, or pierce an individual who is under eighteen years of age unless the tattooing, branding, subdermal implanting, scarifying, or piercing takes place in the presence of and with the written consent of the individual's parent or legal guardian.
3. It is a class B misdemeanor for a person to sell, trade, or otherwise provide materials or kits for tattooing, self-tattooing, branding, self-branding, scarifying, self-scarifying, subdermal implanting, self-subdermal implanting, body piercing, or self-body piercing to an individual who is under eighteen years of age.
4. A political subdivision may enact and enforce an ordinance restricting tattooing, branding, subdermal implanting, scarifying, and piercing or restricting the sale of tattooing, branding, subdermal implanting, scarifying, and piercing materials and kits if the ordinance is equal to or more stringent than this section.

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

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

1. A person may not operate a facility providing tattooing, body piercing, branding, subdermal implant, ~~and~~ or 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. 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. The health council shall adopt rules to regulate any person that receives compensation for engaging in the practice of tattooing, body piercing, branding, subdermal implants, or scarification. The rules must establish health and safety requirements and limitations with respect to the age of an individual who may receive a tattoo, body piercing, or scarification and may prohibit any practice that the health council deems unsafe or a threat to public health.
3. A facility is exempt from subsection 1 if the facility provides body piercing that is limited to the piercing of the noncartilaginous perimeter or lobe of the ear and the facility does not provide tattooing, branding, scarification, or subdermal implants. A person is exempt from regulation under subsection 2 if the person's practice under this section is limited to piercing of the noncartilaginous perimeter or lobe of the ear. A licensed health care professional acting within that professional's scope of practice and the associated medical facility are exempt from this section.
4. If a customer of a facility regulated under this section reports to the facility an injury the customer or operator of the facility believes to have resulted from the tattooing, body piercing, branding, subdermal implanting, or scarification provided at the facility, the operator of the facility shall provide the customer with written information on how to report the alleged injury to the state department of health. If a licensed health care professional treats a patient for an injury the professional determines, in the exercise of professional judgment, occurred as a result of a service regulated under this section, the professional shall report the circumstances to the state department of health. A licensed health care professional is immune from liability for making or not making a report under this subsection.
5. 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.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2352.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 83 Nays 0 Absent 11

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,
at _____ o'clock _____ M.

Secretary of State