

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
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DESCRIPTION

2352

2007 SENATE HUMAN SERVICES

SB 2352

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2352

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 2-05-07

Recorder Job Number: 2774,2780

Committee Clerk Signature *Mary K Monson*

Minutes:

Chairman Senator J. Lee opened the hearing on SB 2352 to provide for limitations on tattooing and body piercing of minors; and to provide a penalty.

Sen. Wanzek (District #29) introduced SB 2352. This is talking about minor children. There is nothing in ND law that prohibits the tattooing of a minor child other than what is probably implied in some of the general consent laws. There is nothing specifically or explicitly stating that there needs to be parental involvement. The cities of Fargo and Bismarck have ordinances that are very similar to this bill. The bill simply makes reference to body piercing and tattooing and basically says it is a class B misdemeanor for any person to give a tattoo or body piercing to a person under 18 without the written consent or without the presence of a parent or legal guardian. He offered an amendment (Attachment #1). Some will say this will open it up to be more available for children to get tattoos and body piercings. That is not his intent.

Senator J. Lee asked what makes people think this would be opening it up for more tattooing.

Sen. Wanzek said that is not his intent if he is missing something. Actually they would be making it illegal without parental consent.

Senator Warner asked about the word "and" in line 12. Would he be comfortable with the word "or"?

Sen. Wanzek would leave that up to the discretion of the committee.

Senator Dever assumed he was also talking about ear piercing and not talking about commercial enterprises. If Aunt Sally pierces her niece's ears, she would be subject to class B misdemeanor.

Sen. Wanzek said this is where they might need to research the Bismarck ordinance.

(Meter 7:25) There was some language that exempted ear piercing.

Sophia Preszler testified in favor of SB 2352. (Attachment #2)

Senator Dever asked if she knew if the language here was the same as in the city ordinance.

Ms. Preszler thought it was basically the way as the city ordinance.

Senator J. Lee told a story about young children having pierced ears. If the parents decide to give their child permission to have her ears pierced, is she saying that the state should say the parents can not let that happen?

Ms. Preszler emphasized her position that a child should wait until 18 to have any piercing.

Senator Heckaman asked about information in one of her attachments and if she knew which states have removed the exception.

Ms. Preszler wasn't sure.

Justin Marter (owner of Michael Jay's) testified in support of SB 2352. He told the committee that, in their shop, they have never tattooed anybody under the age of 16 without parental consent (Meter 21:45). He believes the laws are good laws; however, some areas do need to be a little stricter. The safety of the child is the most important part.

(Meter 22:35) He talked about written consent of the parent and said it does no good unless a notary signs it. He felt there should be an amendment that says "it is a class B misdemeanor

for a person to tattoo or pierce an individual that is not in a licensed shop. If you take the tattooing and piercing away from the minors, there are plenty of untrained people who do practice this out of home, garages, backyards, etc. That is where the health issue comes in. (Meter 25:00) He also addressed ear piercing guns and piercing the earlobes only—non cartilage part of the ear

Senator J. Lee asked him if he would provide written information about the amendments he suggested.

Mr. Marter said he would provide the information.

Senator Heckaman asked what he is licensed under.

Mr. Marter said the shop is licensed; the individuals are not (Meter 27:10)

Senator Heckaman asked how the shop is licensed.

Mr. Marter said it is licensed through the city of Bismarck.

Senator J. Lee asked if he saw any problems with unscrupulous shops moving outside of the governing areas and so that having something statewide would be beneficial.

Mr. Marter said there should be a statewide minimum.

Senator Dever referred to subsection 3 (Meter 29:35) and asked if that addressed the concern with people doing it in their garage.

Mr. Marter said the problem is you can get it anyway. (Meter 30:07)

There was some discussion on ear piercing guns.

There was no opposing testimony.

Kevin Bollinger (ND Dept. of Health) offered clarifications to earlier discussions. The Dept. of Health will probably be blessed with enforcement of this law. A companion bill HB 1505 deals with tattooing and body piercing. That bill has been amended to include terminology dealing with branding, implants, and scarification. There are 8 or 9 local health jurisdictions in ND now

that have local ordinances in addition to the cities of Fargo, Bismarck (Meter 34:05). There are some parts of the state that are not covered by local ordinances. This law would cover those. (Meter 35:00) He talked about the National Environmental Health Association's Model Body Art Guidelines.

Senator Warner asked if they could get a copy of the model art ordinance.

Senator J. Lee said it might be included in the Fargo ordinance (Attachment #3)

Senator Warner asked if they are approaching circumcision in any way with the ordinance they are looking at.

Mr. Bollinger said this does not address that at all.

The hearing on SB 2352 was closed.

#### **Job #2780**

There was discussion on ordinances and that there is presently no statewide law.

The committee talked about language that would include a notarized signature, written consent, and in the absence of the parent.

Another area they considered for an amendment was an exception for lobe piercing only.

There was general discussion on ear piercing.

What if there are possibly duplicate inspections where a state inspects and a city might inspect. Is there some precedent on which one is the default? The one that is more stringent is the one that should do the inspections. Discussion followed on who would do the inspections and enforcing.

(Meter 14:30) There was discussion on HB 1505. They didn't want the two bills don't conflict with each other.

(Meter 17:50) Discussion about adding the Wanzek amendment and also including some things that are in the city ordinances.

(Meter 20:00) There was discussion on the recommendation of Mr. Marter of something about "not in a licensed shop". The intent of the bill is to address those under the age of 18. If they look at licensed or unlicensed, that is an expansion. Licensing is addressed in 1505. The committee agreed to limit SB 2353 to the original point of age and parental consent. Senator Erbele moved to accept the Wanzek amendment.

Motion was seconded by Senator Dever.

Roll call vote 6-0-0.

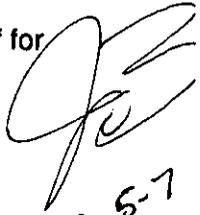
The committee discussed the need for a notarized signature. Discussion continued on tattooing children and if something different should be done than for the piercing.

That could get into cultural issues.

Senator Heckaman moved a Do Pass as amended.

Motion seconded by Senator Dever.

Roll call vote 6-0-0. Carrier is Senator Dever.



2-5-7

PROPOSED AMENDMENTS TO SENATE BILL NO. 2352

Page 1, after line 16, insert:

- "4. A political subdivision may enact and enforce an ordinance restricting tattooing and piercing or restricting the sale of tattooing and piercing materials and kits if the ordinance is equal to or more stringent than this section."

Renumber accordingly

Date: 2-5-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2352

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Sen. Wanzel amendment 70854.0101

Motion Made By Sen. Erbele Seconded By Sen. Dever

| 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 | ✓   |    |
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Total (Yes) 6 No 0

Absent 0

Floor Assignment ~~Senator~~

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

Date: 2-5-07

Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2352

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number 70854.0101 Title .0200

Action Taken Do Pass as Amended.

Motion Made By Sen. Heckaman Seconded By Sen. Dever

| 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 | ✓   |    |
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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**

SB 2352: 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). SB 2352 was placed on the Sixth order on the calendar.

Page 1, after line 16, insert:

"4. A political subdivision may enact and enforce an ordinance restricting tattooing and piercing or restricting the sale of tattooing and piercing materials and kits if the ordinance is equal to or more stringent than this section."

Renumber accordingly

2007 HOUSE HUMAN SERVICES

SB 2352

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2352

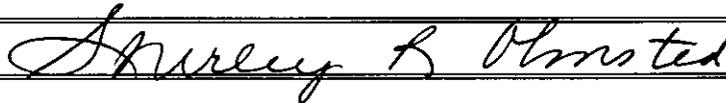
House Human Services Committee

Check here for Conference Committee

Hearing Date: February 26, 2007

Recorder Job Number: 3842

Committee Clerk Signature



Minutes:

**Chairman Price** opened the hearing on SB 2352 and asked the clerk to read the title.

**Senator Terry Wanzek** of District 29 came forward as a sponsor of SB 2352. He wanted to share a personal story. His brother had a 15 year old daughter who came home with a tattoo a couple of years ago. It was done outside in a little area and they were very upset. They believed there was nothing they could do about it. We searched the law and found that there are city ordinances in North Dakota, in Bismarck and Fargo for sure, and the bill before you is basically Bismarck's ordinance. There is no state law and with working with the Legislative Council that regulates to tattooing. This is basically what the bill is about and includes body piercing. The bill as written says that no one shall give a body piercing or tattoo to a minor child under the age of 18 without the written permission and presence of the parent. I believe in our country and our freedom to make choices, even if in my view some are foolish choices. When it comes to a minor, these are permanent things and I feel that parents should have some direct connection to or an ability to address that. I want those who are tattooing or piercing to think hard about doing this to a minor child without parental or guardian permission. I will try to answer any questions. I might add that some wanted to add that no one

under 16 can be tattooed or body pierced at all. My 6 year old already has earrings and I would have been in trouble. I believe in the role of parents and I believe that parents need to be involved here to have some options to deal with this.

**Ms. Sophia Preszler** came forward in support of SB 2352. See written testimony marked as Item #1.

**Mr. Justin Marter**, who is the manager and owner of Michael Jay's Tattoo, came forward in support of SB 2352. There needs to be uniform implementation and enforcement of the law. Along with other amendments I would like to pass around an ear piercing gun used at every shop in town. Here is a similar ear piercing gun that was run through an auto place that we use to sterilize the equipment which these obviously cannot be sterilized. You get a nice little mushy melted piece of plastic. The biggest problem with any of this is the health and safety of any individual and especially that of a minor. Our city did a good job but I think the state needs to take it a step farther and ban it all together. My shop is held responsible for all piercing and any piercings being done. We are inspected by the city and licensed by the city. They are also doing permanent makeup, ear piercing in hair salons which can be problematic due to cross contamination of the hair and other people's skin around there. As far as the amendments go, I think we should make it a class b misdemeanor for a person to tattoo and pierce outside of the licensed shop. I believe that anyone who breaks the skin in any fashion whatsoever, whether it is in the earlobe, or if they are doing permanent eye liner, they should all be held responsible to the same aspects of the law as the actual shops are regardless of whether if there are 8 people working there or there is just 1 person. Everyone needs to be on the same plain. I also have a statement made by the APP that is the Association of Professional Piercers as to what their position is on the

ear piercing gun. I also have a printout from the Mayo Clinic saying the same thing about the ear piercing gun and the tattooing being done out of licensed shops and the health risks of those. Essentially, I agree with all of the things the committee is trying to do however I do think that the laws need to be imposed and they need to be a little stricter than they are. The way they are now kind of gives a lot of leeway. The laws are great but the enforcement just isn't there. There needs to be a separate group or committee set up for this law. There are too many home jobs and too many things running rampant and they need to put a stop to a lot of it but there are a lot of people that are below the radar. With tattooing in our shop, we have never tattooed anyone under the age of 16. Anyone that was 16 or 17 was accompanied by an adult with the last name that matched. If the names didn't match, we had a paper trail of first marriage, second marriage or however marriages there were. With ear piercing I think that needs to be lowered to at least 13 because the only avenue that these younger people have of getting pierced and they are based on city law. It needs to be done by a trained professional and they are way too easy to misuse. The involvement of the training that these people have is to draw a dot and pull the trigger. They have no cross contamination. They do not have to be CPR and first aid certified which I do and everyone in my shop does. It is kind of where to draw the line. If I am held to these standards, why isn't everyone else?

**Representative Porter** said you were going to testify on one of the bills that we had. I believe that was a HB that was a lot more in-depth. From your professional standpoint which one do you think does a better job of addressing your concerns?

**Mr. Marter** said the SB 2352 is good, but I also think the amendment of the class b misdemeanor to the person who is actually providing that service definitely needs to be

added into that. It needs to be a licensed shop. Otherwise, these people who are getting things done, granted it was by their own choice, have no legal recourse to go after this person because it was done in a home. They should be held responsible whether they are a professional or not. I am held liable for everything done in my shop and I believe they should too even though it is on their property.

**Representative Porter** said he is guessing that you can go out on the internet and have one of these guns shipped to your home.

**Mr. Marter** said easily. You can go on the internet and have tattoo supplies shipped to your home too.

**Representative Porter** said if we have too much law and are too inclusive so that it really only deals with those who are doing it for money as a profession or as a living, are we going to create an underground network of problems just through internet sales and that type of thing.

**Mr. Marter** said you are always going to have those. There is always going to be the person whose cousins needs a piercing or a tattoo and is visiting for the weekend and there is going to be traveling piercers and traveling tattooist where ever you go. In our community, we are liable for the safety of our people who are minors. Therefore it is our responsibility to uphold at least some kind of standard as to say that we are not going to allow this. You are never going to stop it completely, but you can take a big chunk of the black market out of it. You can take a lot of those health risks and dangers away from the people.

**Chairman Price** asked for further testimony in favor of SB 2352.

**Ms. Preszler** said she had mentioned the age of 18. She would not mind if that was moved down to the age of 16 or 17 but we do have to be consistent with children and we need to hold the piercing and tattooing industry accountable for that.

**Chairman Price** asked for any opposition. Hearing none, the hearing on SB 2352 was closed.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2352

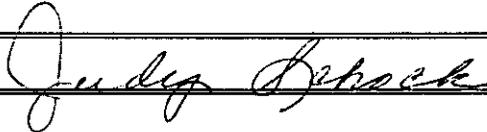
House Human Services Committee

Check here for Conference Committee

Hearing Date: February 27, 2007

Recorder Job Number: 4016

Committee Clerk Signature



Minutes:

**Chairman Price:** Let's take out SB 2352 for discussion. I really think we need to coordinate with the Senate on this unless they go a totally different direction than we did ours. No use in having two totally different bills.

**Representative Kaldor:** I am wondering, seems to me that there is probably a way to merge them. I am wondering about our committee's view. What they have done here is penalties, in our bill we really began the process of regulation, and said the health department should establish some rules before going to a penalty. The Senate stepped right in and it is a class B misdemeanor. Our measure is a little slower paced. I would like to know how the committee feels about the process.

**Chairman Price:** Mr. Marter brought in a stud gun issue and that was something we did not address. We didn't realize the association had a position on it.

**Representative Kaldor:** that is why I am thinking the health department should be focusing attention on this because how do we know that we are really attacking or dealing with the most important aspects of this.

**Representative Weisz:** If I remember our discussion there was language about a class B, we took that out. The committee felt regulating made more sense.

**Chairman Price:** Committee think on this some more and Representative Kaldor will check with the Senate side

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2352

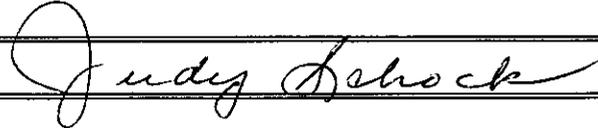
House Human Services Committee

Check here for Conference Committee

Hearing Date: March 19, 2007

Recorder Job Number: 5267

Committee Clerk Signature



Minutes:

**Chairman Price:** Representative Kaldor how are you coming on the amendments?

**Representative Kaldor:** HB 1505 and the 2352 are in alignment. The only thing that is not included in 2352 is some things I don't have definitions for. What is the definition of scarification? Basically what 2352 puts into place penalties for tattooing, or piercing under the age of 18 with out a parent or guardian causes for a class B misdemeanor, and has more strict enforcement. Our bill 1505 as it left the house, what we put in place was basically developing fee structure and health rules, from the health department, regarding not just tattooing, body piercing, but branding, sub dermal in plants and scarification. The Senate has added a section that says the fees established by the department have to be based on the direct costs of regulating the industry.

**Rep. Porter:** If we don't include in sub division 2 the verbiage that we passed out as far as scarification and implantation than we didn't have a penalty on 1505 that said this is what will happen to you , if you do any of these other two procedures.

**Rep Kaldor:** That is right 1505 carries no penalties, only 2353. I need to get amendments.

**Chairman Price:** We will close this discussion on SB 2352

# 2007 HOUSE STANDING COMMITTEE MINUTES

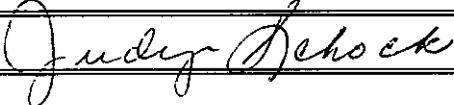
Bill/Resolution No. SB 2352

House Human Services Committee

Check here for Conference Committee

Hearing Date: March 21, 2007

Recorder Job Number: 5415

Committee Clerk Signature 

Minutes:

Minutes:

**Rep. Price:** Yesterday we passed out amendments for this.

**Rep. Kaldor:** The amendment that you see before you is .0201. What they do to SB 2352 is add definitions for the three terms that are not included in 2352 that are included in 1505. They are branding, scarifying, and subternal implants. They basically add those to the statute and then define them. As you see throughout the bill in subsections 2, 3, and 4, wherever there is referencing to tattooing and piercing, they are putting tattooing, piercing, scarring, and implanting. Basically this is the penalty section. This section of law will come under the criminal statute. HB 1505 is basically really under the Health Department for developing regulations for this industry. This particular bill goes under the criminal statute. It basically describes the penalties for unauthorized tattooing, body piercing, branding, scarifying, which is a class B Misdemeanor if a person under 18 does this without their parents consent or presence. They cannot sell, trade or provide these services. We talked a little bit in legislative council about branding because you can probably use a loop in that. In discussion about this with Jennifer Clark, she said if SB 2352 passes as it is, and than if HB 1505 has language referencing these other activities, it is possible that someone might do a branding or scarification or subternal

implant to someone under 18 without there being help. She thought that we may still want to address this next session after the Health Department is put into this rule format. We may want to make one of these totally illegal or many of them illegal. She said under the current circumstance that if SB 2352 passes as is, and HB 1505 passes as is, it is possible that they can legally scarify or brand without repercussion. I guess my position on this is that I think these amendments are ok. I feel that we should be doing something more.

**Rep. Porter:** Is it a possibility that we are going to get an additional amendment back?

**Rep. Price:** It is.

**Rep. Porter:** So if we put a narrative penalty into that one, will it cover the loopholes that you are talking about?

**Rep. Kaldor:** It is possible. Basically what you are saying is that we would incorporate SB 2352 into HB 1505.

**Rep. Porter:** We can still pass this one?

**Rep. Kaldor:** Yes.

**Rep. Porter:** But then also add it to HB 1505?

**Rep. Kaldor:** They are not in conflict with one another.

**Rep. Porter:** We could have a class B Misdemeanor and help code part of it too? Rather than just the criminal code so it is covered on both sides.

**Rep. Kaldor:** I think we could.

**Rep. Porter:** On HB 1505 I thought that if a written consent wasn't notarized, it didn't work. In this one we add it so it is the same on line 12.

**Rep. Kaldor:** This amendment does not do that. Actually as I read HB 1505 the way it is passed and marked, there is no reference. They basically turn it over to the Health Department. We had that discussion and in fact I brought that up when we discussed it. It's not

in HB 1505. As we said they should establish rules, health and safety rules, requirements, limitations, or perspective age of an individual that may receive a tattoo, body piercing, or scarification. They prohibit any practice of the health council that is unsafe. Actually I noticed something there that we won't say anything about the subternal implants. We do but we don't in the second sentence of subsection 2.

**Rep. Price:** We didn't put anything in there about that?

**Rep. Kaldor:** No.

**Rep. Price:** We discussed it and we had the amendments but never passed it.

**Rep. Kaldor:** This is talking about the body piercing. I would say even though we thought we were exempting ear piercing, I don't think we are. I think we would have to say 'except the ears'.

**Rep. Conrad:** I guess I don't know the difference but the cheeks, tongues, and all of that is not included?

**Rep. Kaldor:** Not according to this. If we wanted to exempt ear piercing we would have to state that. We would have to be very specific to ear lobes. We could say cartilage tissue.

**Rep. Potter:** What kind of cartilage? Ears, nose?

**Rep. Price:** Well we do have the other option. We can kill this bill, not concur with HB 1505, and have time to fix this.

**Rep. Potter:** I think that is a good idea.

**Rep. Price:** Well we thought that HB 1505 was better to begin with than this one. It seems like that is what is going on.

**Rep. Kaldor:** One of the things we talked about back in HB 1505 was penalties. We kind of decided that maybe we ought to establish rules first. I don't have any heartburn if we don't do this.

**Rep. Price:** Well the council then may prohibit scarification and branding. Then we wouldn't have to worry about it.

**Rep. Uglem:** When Mr. Bullinger was in he did state to me that they needed SB 2352 in order to have a penalty in the code off of what we had done with HB 1505. It would seem that if we were going to do anything we should make sure we would have an amendment on SB 2352 and then we would appoint a conference committee to be the same three people from each side to vote bills at the same time with the Department here and get them put into one. Then they can make the decision if they are going to get rid of one and have everything into one bill or do both, or however they are going to do it.

**Rep. Potter:** One other thing that the guy with all the tattoos said was when he mentioned the ear piercing. He said he thought it should be a misdemeanor and that it should be a misdemeanor if they pierced it out of shops, along with tattooing. Those were his two things I wrote down.

**Rep. Kaldor:** Subsection 3 in SB 2352 addresses that this is the self tattooing, body piercing, and all of that would be a class B Misdemeanor. You could be guilty if you pierced your own ears. We probably wouldn't want to go that far.

**Rep. Price:** Well he talked about the young problem.

**Rep. Kaldor:** I move the amendment.

**Rep. Porter:** I second that.

**Rep. Price:** We will take a voice vote on that. All in favor say 'aye' all opposed say 'no'. The amendment carries.

**Rep. Kaldor:** I move a do pass as amended.

**Rep. Conrad:** I Second that.

**Rep. Conrad:** What I'm reading on line 12, it does read in the presence or parents. They have to be standing there when it is happening and have the notarized thing. We were thinking the notarized thing was on the sun tanning bill where they wouldn't have to be there. It wasn't this bill. You would have to be present and signed for this bill.

**Rep. Price:** Is there any discussion? If not we will take a roll call vote on a do pass as amended motion for SB 2352. The do pass as amended motion passes with a vote of 11-1-0. Is there a volunteer to carry this bill?

**Rep. Kaldor:** I will.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2352

Page 1, line 1, replace "provide for" with "create and enact a new section to chapter 12.1-31 of the North Dakota Century Code, relating to" and after "tattooing" insert ", branding, subdermal implantation, scarifying,"

Page 1, line 4, after "**Tattooing**" insert ", branding, subdermal implants, scarifying," and remove "- Penalty"

Page 1, replace lines 6 through 9 with:

- 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 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. The term does not include implantations for medical purposes.
- e. "Tattoo" means to mark the skin of an individual by insertion of permanent colors through puncture of the skin."

Page 1, line 10, after "tattoo" insert ", brand, subdermal implant, scarify,"

Page 1, line 11, after "tattooing" insert ", branding, subdermal implanting, scarifying,"

Page 1, line 15, after the second underscored comma insert "branding, self-branding, scarifying, self-scarifying, subdermal implantation, self-subdermal implantation,"

Page 1, line 17, after "tattooing" insert ", branding, subdermal implantation, scarifying,"

Page 1, line 18, after "tattooing" insert ", branding, subdermal implantation, scarifying,"

Re-number accordingly

**House Amendments to Engrossed SB 2352 (70854.0202) - Human Services Committee  
03/21/2007**

Page 1, line 1, replace "provide for" with "create and enact a new section to chapter 12.1-31 of the North Dakota Century Code, relating to" and after "tattooing" insert ", branding, subdermal implantation, scarifying,"

Page 1, replace lines 4 through 9 with:

**"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 body 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 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. The term does not include implantations for medical purposes.
- e. "Tattoo" means to mark the skin of an individual by insertion of permanent colors through puncture of the skin."

Page 1, line 10, after "tattoo" insert ", brand, subdermal implant, scarify,"

Page 1, line 11, after "tattooing" insert ", branding, subdermal implanting, scarifying,"

Page 1, line 15, after the second underscored comma insert "branding, self-branding, scarifying, self-scarifying, subdermal implantation, self-subdermal implantation,"

Page 1, line 17, after "tattooing" insert ", branding, subdermal implantation, scarifying,"

Page 1, line 18, after "tattooing" insert ", branding, subdermal implantation, scarifying,"

Renumber accordingly

Date: 3/21  
Roll Call Vote #:

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

House HUMAN SERVICES 2352 Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken no amendments

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 Uglen                    |     |    |                  |     |    |
| Robin Weisz                    |     |    |                  |     |    |
|                                |     |    |                  |     |    |
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|                                |     |    |                  |     |    |

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

Absent \_\_\_\_\_

Floor Assignment Rep. \_\_\_\_\_

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

Date: 3/21  
Roll Call Vote #: 2

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

House HUMAN SERVICES 2352 Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken No pass as Amended

Motion Made By Rep. Kaldor Seconded By Rep. Conrad

| 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 Uglen                    | ✓   |    |                  |     |    |
| Robin Weisz                    |     | ✓  |                  |     |    |
|                                |     |    |                  |     |    |
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Total (Yes) 11 "Click here to type Yes Vote" No 1 "Click here to type No Vote"

Absent 0

Floor Assignment Rep. Kaldor

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

**REPORT OF STANDING COMMITTEE**

SB 2352, as engrossed: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed SB 2352 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "provide for" with "create and enact a new section to chapter 12.1-31 of the North Dakota Century Code, relating to" and after "tattooing" insert ", branding, subdermal implantation, scarifying,"

Page 1, replace lines 4 through 9 with:

"**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 body 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 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. The term does not include implantations for medical purposes.
- e. "Tattoo" means to mark the skin of an individual by insertion of permanent colors through puncture of the skin."

Page 1, line 10, after "tattoo" insert ", brand, subdermal implant, scarify,"

Page 1, line 11, after "tattooing" insert ", branding, subdermal implanting, scarifying."

Page 1, line 15, after the second underscored comma insert "branding, self-branding, scarifying, self-scarifying, subdermal implantation, self-subdermal implantation,"

Page 1, line 17, after "tattooing" insert ", branding, subdermal implantation, scarifying,"

Page 1, line 18, after "tattooing" insert ", branding, subdermal implantation, scarifying,"

Re-number accordingly

2007 SENATE HUMAN SERVICES

CONFERENCE COMMITTEE

SB 2352

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2352

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 4-04-07

Recorder Job Number: 5723

Committee Clerk Signature

*Mary K Monson*

Minutes:

Chairman Senator Dever brought the conference committee on SB 2352 to order. Attendance was taken with all members present: Senator Dever, Senator Erbele, Senator Heckaman, Representative Kaldor, Representative Porter, and Representative Hofstad.

Chairman Dever asked the House to explain their amendment.

Representative Kaldor said the House amendments merely added the items of scarifying, sub dermal implants, and branding to the section. As they went through HB 1505 they discovered there was a number of other body art things going on and felt it was appropriate to add them here since there was no regulation or penalty for performing those particular acts on those under eighteen.

Senator Dever then stated that the language in Section 1, subsection 1, is definitions.

Rep. Kaldor said the first thing they did was to add the definitions for scarify, subdermal implant, and brand to what was already there. The second section basically takes the senate language and adds the scarifying, sub dermal implant, and branding language. Subsection three does the same thing. It takes the senate language and adds branding, self-branding, scarifying, self-scarifying, subdermal implantation, self-subdermal implantation. They did the

same thing in subsection 4. The other change was in section 1 where they identified the chapter of the Century Code where these penalties fall under.

Senator Dever asked if the penalty is already a Class B misdemeanor.

Rep. Kaldor said yes. They didn't change any of that.

Senator Dever suspected the reason both sides didn't concur on SB 2352 and HB 1505 was because they were similar and wanted to compare the two and how they fit together.

Rep. Kaldor said their chairman had concerns and thought they might want to combine the bills but wanted to make sure they weren't in conflict with each other. Legislative council has indicated that there is no conflict between the two. They can stand alone.

Representative Porter asked Mr. Bullinger from the department how this one fits, other than the earlobe piercing thing, with their enforcement of what is said in HB 1505.

Ken Bullinger (Department of Health) responded that they all knew the volumes of rule that they are going to have to pass to further enforce. He suggests keeping legislation simple because they have to go in and adopt administrative rule anyway. He didn't have a problem with defining in statute. They can make administrative rule changes. The fees are now established through rule not statute. He thought they would define all the terms in administrative rule and there would be no need to do it in statute.

He pointed out that there might be other ones that they haven't thought about, such a permanent makeup. Where does that fall into all this?

Representative Porter said that would be a tattoo because it is permanent and it is subdermal. They weren't outlawing it. All they are saying is that in order to do it under 18 parents need to be there as part of it.

Representative Porter said he does feel more comfortable having the bulk of the definitions when you attach a Class B misdemeanor to it. As things change in the industries, it does allow the legislative arena to be more involved in making adjustments every two years.

Representative Kaldor stated that it had been described in an earlier bill by one of the judges how important definitions are (meter 08:50).

Representative Porter referred to the permanent makeup situation. He asked if licensed cosmetologists are doing that work.

Mr. Bullinger answered that he had talked to the board of cosmetology. They are not involved at all with tattoo body art. He didn't ask the specific question on permanent makeup.

Representative Porter asked about plastic surgeons doing permanent makeup type of situations. Are there exemptions that they don't need a second license because they are already licensed through their board? (Meter 11:00)

Dave Peske (ND Medical Association) said that might be a valid point if this chapter is requiring licensure of these individuals. These bills are requiring a permit, not necessarily licensure.

Representative Porter asked if he would see that a plastic surgeon doing permanent makeup would also have to have a permit from the health department to do that part of their work.

Mr. Peske said that was a good possibility. When you see the language "the health council shall write rules" that is where that exemption would be addressed.

Senator Dever asked if the Class B misdemeanor in this bill would be consistent with other similar kinds of things.

Mr. Bullinger answered that it would.

Representative Porter wanted the record to show that the intent of the legislature is not to encumber already licensed practitioners. If the board of cosmetology has a licensing and

certification process for their practitioners and the board of medical examiners for physicians, those exemptions are part of the rulemaking process. He wanted to make sure the department understands that the legislature isn't looking for them to regulate already licensed practitioners within their respected groups.

Mr. Bullinger responded by saying they would abide by that information. He pointed out that they are not interested in going beyond that.

(Meter 16:00) Discussion followed on proposed language for creating an exception for piercing the noncartilaginous perimeter or lobe of the ear.

Representative Kaldor made a motion for the Senate to accede to the House amendments and further amend.

The motion was seconded by Representative Porter.

Roll call vote 6-0-0. Motion carried.

(The correct legislative procedure should have been that the House recede from the House amendments and adopt amendments as follows. The final results of the bill are the same.)

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2352

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 4-17-07

Recorder Job Number: 6088

Committee Clerk Signature

*Mary K Monson*

Minutes:

Senator Dever opened the conference committee on SB 2352. All members were present.

Senator Dever informed the committee that since the conference committee report on this bill had been rejected, they were back to considering the amendment the committee put on which was version .0200.

The part of the amendment that became a point of concern were the words "except the noncartilaginous perimeter or lobe of the ear".

Rep. Porter explained that they shouldn't put the "noncartilaginous perimeter" language in the definition of pierce. It should be added as a number 5 on page 2 (meter 03:03) as a stand alone exemption.

The other thing they need to do was go back and amend 1505 which is the other bill.

Language needs to be put in there that facilities solely in the business of piercing the noncartilaginous perimeter or the lobe of the ear are exempt from the licensing provisions of this act. This is so it is clear that anybody under 18 that is going to get a piercing has to have a parent or guardian sign for it. They are also saying that the little jewelry store, if all they do for their business, is lobe piercing they don't have to be licensed by the health department. If they choose to do a cartilage type piercing higher up on the ear, a nose piercing, or something

else of that nature then they have to be licensed by the department. The other part of this is that a city or local public health unit can have stricter regulations than what this bill says.

Another thing that comes into play here is that all of the things listed in section 1 are all things that are done by licensed health care professionals. (Meter 05:30) They need to be exempt from this act.

Rep. Porter also said that the other thing the department brought up was that a reporting requirement was not put in place in 1505. They recommended putting language in for reporting. (Meter 07:00)

Senator Dever felt the amendments were extensive enough to want them drafted before making a decision on them. Discussion followed on getting them drafted.

Senator Dever said the only question he had was on the new subsection 5 that Rep. Porter talked about.

Rep. Porter explained that they would be taking out of subdivision b the language they had put in about the "except for the noncartilaginous perimeter lobe of the ear.

There was discussion about where it needed to be. (Meter 09:25) They still wanted the 18 year old requirement. They wanted to get away from the facilities solely in the business of lobe type piercing being subject to the states licensing requirements although they might still be subject to the local requirements. The reason is because that part of the ear is not as susceptible to infection.

(Meter 12: 28) There was discussion on the reporting requirement and it was noted that anyone can report anything to the health department.

The conference committee was recessed until amendments could be drafted.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2352

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 4-18-07

Recorder Job Number: 6116

|                           |
|---------------------------|
| Committee Clerk Signature |
|---------------------------|

Minutes:

Senator Dever called the conference committee on SB 2352 to order. All members were present except Sen. Erbele.

Senator Dever reported that amendments had been drafted and asked Rep. Porter to explain them.

Rep. Porter explained the amendment does two things. It amends 2352 on page 1 and on page 2 it amends 1505.

It takes out the new language about piercing in Section 1 on page 1 so that pierce still means any puncture. It adds a subsection 2 that was the penalty but also exempts a licensed health care professional acting within their scope of practice (meter 01:33).

On page 2 he explained the subsections 3 and 4 in section 2 on exemptions and reporting.

Senator Dever said it appeared to say what they wanted it to say. He recognized Mr. Peske (ND Medical Association) for comments.

Mr. Peske pointed out that there was not consistency with the wording in the subsection 3 dealing with the exemptions. Scarification was not included.

Discussion followed with agreement that the language should be consistent and scarification should be included.

Rep. Porter made a motion to amend using version .0204 with the changes they made on page 2.

Rep. Hofstad seconded the motion.

Roll call vote 5-1-0. Motion carried.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2352

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 4-20-07

Recorder Job Number: 6190

Committee Clerk Signature

*Mary K Monson*

Minutes:

Senator Dever opened the conference committee on SB 2352 with all members present.

Senator Dever pointed out they had version .0205 of the amendment in front of them and called for a motion.

Rep. Porter made a motion that the House recede from its amendments and adopt amendments .0205.

Rep. Hofstad seconded the motion.

Roll call vote 6-0-0. Motion carried.

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

Bill Number 2352 (, as (re)engrossed):

Date: 4-4-07

Your Conference Committee Senate Human Services

**For the Senate:**

**For the House:**

|                      |   |   |  |  |  |                     |   |   |  |  |  |
|----------------------|---|---|--|--|--|---------------------|---|---|--|--|--|
| <u>Sen. Dever</u>    | P | Y |  |  |  | <u>Rep. Hojstad</u> | P | Y |  |  |  |
| <u>Sen. Erbele</u>   | P | Y |  |  |  | <u>Rep. Porter</u>  | P | Y |  |  |  |
| <u>Sen. Heckaman</u> | P | Y |  |  |  | <u>Rep. Kaldor</u>  | P | Y |  |  |  |

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

the (Senate/House) amendments on (SJ/HJ) page(s) 1043 -- 1044

\_\_\_\_\_ and place \_\_\_\_\_ on the Seventh order.

(adopt) (further) amendments as follows, and place 2352 on the Seventh order:

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

(Re)Engrossed 2352 was placed on the Seventh order of business on the calendar.

DATE: \_\_\_\_\_

HOUSE CARRIER: \_\_\_\_\_

SENATE CARRIER: \_\_\_\_\_

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

MOTION MADE BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

VOTE COUNT: \_\_\_ YES \_\_\_ NO \_\_\_ ABSENT

**REPORT OF CONFERENCE COMMITTEE**

**SB 2352, as engrossed:** Your conference committee (Sens. Dever, Erbele, Heckaman and Reps. Hofstad, Porter, Kaldor) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1043-1044, adopt amendments as follows, and place SB 2352 on the Seventh order:

That the House recede from its amendments as printed on pages 1043 and 1044 of the Senate Journal and on pages 1105 and 1106 of the House Journal and that Engrossed Senate Bill No. 2352 be amended as follows:

Page 1, line 1, replace "provide for" with "create and enact a new section to chapter 12.1-31 of the North Dakota Century Code, relating to" and after "tattooing" insert ", branding, subdermal implantation, scarifying,"

Page 1, replace lines 4 through 9 with:

**"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 body 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, except for noncartilaginous perimeter or lobe of the ear, 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 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. The term does not include implantations for medical purposes.
- e. "Tattoo" means to mark the skin of an individual by insertion of permanent colors through puncture of the skin."

Page 1, line 10, after "tattoo" insert ", brand, subdermal implant, scarify,"

Page 1, line 11, after "tattooing" insert ", branding, subdermal implanting, scarifying,"

Page 1, line 15, after the second underscored comma insert "branding, self-branding, scarifying, self-scarifying, subdermal implantation, self-subdermal implantation,"

Page 1, line 17, after "tattooing" insert ", branding, subdermal implantation, scarifying,"

Page 1, line 18, after "tattooing" insert ", branding, subdermal implantation, scarifying,"

Re-number accordingly

Engrossed SB 2352 was placed on the Seventh order of business on the calendar.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2352

That the House recede from its amendments as printed on pages 1043 and 1044 of the Senate Journal and on pages 1105 and 1106 of the House Journal and that Engrossed Senate Bill No. 2352 be amended as follows:

Page 1, line 1, replace "provide for" with "create and enact a new section to chapter 12.1-31 of the North Dakota Century Code, relating to", after "tattooing" insert ", branding, subdermal implantation, scarifying,", and after "minors" insert "; 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"

Page 1, replace lines 4 through 10 with:

"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"

Page 1, line 11, after "tattooing" insert ", branding, subdermal implanting, scarifying."

Page 1, line 15, after the second underscored comma insert "branding, self-branding, scarifying, self-scarifying, subdermal implanting, self-subdermal implanting."

Page 1, line 17, after "tattooing" insert ", branding, subdermal implanting, scarifying."

Page 1, line 18, after "tattooing" insert ", branding, subdermal implanting, scarifying."

Page 1, after line 19, insert:

**"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, 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."

*Or other  
medical  
conditions*

Renumber accordingly

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

Bill Number SB 2352 (, as (re)engrossed):

Date: 4-17-07  
4-18-07  
4-20-07

Your Conference Committee Senate Human Services

| For the Senate: |   |      |   |      | For the House: |               |      |   |      |   |   |
|-----------------|---|------|---|------|----------------|---------------|------|---|------|---|---|
| 4-17            |   | 4-18 |   | 4-20 | 4-17           |               | 4-18 |   | 4-20 |   |   |
| Sen. Denver     | P | P    | Y | P    | Y              | Rep. Hoftstad | P    | P | Y    | P | Y |
| Sen. Erbele     | P | A    | - | P    | Y              | Rep. Porter   | P    | P | Y    | P | Y |
| Sen. Heckman    | P | P    | Y | P    | Y              | Rep. Kaldor   | P    | P | Y    | P | Y |

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

the Senate (House) amendments on (SJ/HJ) page(s) 1043 -- 1044

\_\_\_\_\_ and place \_\_\_\_\_ on the Seventh order.

, adopt (further) amendments as follows, and place 2352 on the Seventh order:

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

((Re)Engrossed) 2352 was placed on the Seventh order of business on the calendar.

DATE: \_\_\_\_\_  
HOUSE CARRIER: \_\_\_\_\_ SENATE CARRIER: \_\_\_\_\_

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

MOTION MADE BY: \_\_\_\_\_  
SECONDED BY: \_\_\_\_\_  
VOTE COUNT: \_\_\_\_\_ YES \_\_\_\_\_ NO \_\_\_\_\_ ABSENT

**REPORT OF CONFERENCE COMMITTEE**

**SB 2352, as engrossed:** Your conference committee (Sens. Dever, Erbele, Heckaman and Reps. Hofstad, Porter, Kaldor) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1043-1044, adopt amendments as follows, and place SB 2352 on the Seventh order:

That the House recede from its amendments as printed on pages 1043 and 1044 of the Senate Journal and on pages 1105 and 1106 of the House Journal and that Engrossed Senate Bill No. 2352 be amended as follows:

Page 1, line 1, replace "provide for" with "create and enact a new section to chapter 12.1-31 of the North Dakota Century Code, relating to", after "tattooing" insert ", branding, subdermal implantation, scarifying,", and after "minors" insert "; 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"

Page 1, replace lines 4 through 10 with:

**"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"**

Page 1, line 11, after "tattooing" insert ", branding, subdermal implanting, scarifying,"

Page 1, line 15, after the second underscored comma insert "branding, self-branding, scarifying, self-scarifying, subdermal implanting, self-subdermal implanting,"

Page 1, line 17, after "tattooing" insert ", branding, subdermal implanting, scarifying,"

Page 1, line 18, after "tattooing" insert ", branding, subdermal implanting, scarifying,"

Page 1, after line 19, insert:

"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."

Renumber accordingly

Engrossed SB 2352 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

SB 2352

Senate Human Services:

My name is Sophia Preszler. I'm a concerned citizen from District 35, here in Bismarck, as most of you already know.

There is no law in North Dakota that curbs or stops piercing and tattooing (P and T) both are running rampant. There are seven shops in Bismarck. That's why I brought the Bismarck ordinance before Senator Wanzek so that the "exception" would be removed from the law that we are proposing, otherwise the Bismarck ordinance is a good ordinance. The "exception" legalizes piercing and tattooing.

Likewise SB 2352 is a good bill without the "exception". the bill says you may not P and T a minor under the age of eighteen. Period. While the "exception" says "parents and guardians which in a child's life is everyone, everyone by permission of their parents may P and T their children." This allows P and T to run rampant. Now the parent, the guardian, and the P and T establishment become the law. They are protected by law. The law defends the wrong doers and the citizen is without protection, harassed and trespassed against in the hands of the wrong doers.

Before you consider to leave the "exception" in the bill, please, visit the Micheal Jays Piercing and Tattooing Clinic located at 1929, Washington Street. It is a legalized P and T clinic under the Bismarck "exception" policy. It's only about six blocks from here. You could easily do it during your lunch break.

Please, allow me to look at the situation of P and T of minors under the age of eighteen through the eyes of the statesman. The statesman provides the citizen with what is best for the welfare of the citizen not necessarily what the citizen wants, and sees that the wrong doer is brought to justice, not provide the wrong doer with the protection of the law. The statesman will not favor the parent or guardian above the law. He puts the parent, guardians and the P and T establishment under the law, even the president and king are under the law. All of us are under the law: Thus if anyone would P and T a minor he would have to answer to the law.

Legalized P and T brings much revenue to a city,<sup>or state</sup> but it leaves the citizen without police protection and makes merchandize of children under the age of eighteen years. The statesman sees that a situation like this is corrected.

Under 2 of this bill it should simply say "It is a class B misdemeanor for a person to tattoo or pierce an individual who is under eighteen years of age. PERIOD.

By way of example at the present time I find myself in the hands of the Micheal Jay's Piercing and Tattooing Clinic, because I am without police protection I may not enter eleven of the businesses at the Northbrook mall. I may not even walk the corridor.

Apparently it's wrong for anyone who does not believe in P and T to enter the P and T clinic, Micheal Jay's clinic considers it a violation of the law, the same as a break in. I did not know this in the fall of 2005 when I stepped into the shop and talked to a few young people and discouraged them against P and T, for this I'm considered a criminal who must be restricted from the whole mall.

Please, remember that if you add the "exception" you will legalize P and T and the law will protect P and T. Please, be statesmen who protect young people and the whole citizenry by removing the "exception".

Do you have any questions? I would gladly answer them.

Thank you for listening to me.

Concerned,

*Sophia Preszler*  
Sophia Preszler  
1725 N 5th Street  
Bismarck, ND 58501  
1-701-255-0269

Two letter<sup>s</sup> to the Editor  
are enclosed.

## There ought to be a law

By SOPHIA PRESZLER  
Bismarck

4-14-61

*Preszler*

Is there a law against the abuse of piercing a baby's ears?

On April 7, I was walking in a Bismarck mall in which there is an establishment that does free "ear piercing." An 8-month baby girl was having her tiny ears pierced.

I have often wondered how babies responded to such a procedure. So, I decided to stay and watch, even though I knew it would be a hard thing for me to do.

The baby protested all the way, even though there were four women who were doing all they possibly could to win the good graces of the child. It was an unusual touch that hurt, and the child fought the procedure.

The woman with the stapler, with the aid of the three other women, was finally able to staple an

expensive-looking earring onto one of the baby's ear lobes. The baby cried as its ear lobe turned a bright red. A woman leaving the shop shivered in shock as she witnessed the sight. I was told to leave if the scene bothered me, as I watched from the window.

The baby was a real fighter. She seemed more discreet than the four women attending her, by fighting against the pain to protect herself.

The women were not about to give up, either. They prevailed after about 20 minutes by forcing the staple into the other ear lobe. The baby screamed at the top of its lungs and would not be quieted.

Please, would someone tell me if there is a law against child abuse of this nature?

# 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-

toeing 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.

CITY OF  
**Fargo**

**Requirements for  
Body Art  
Establishments**

**Fargo Cass Public Health  
401 Third Avenue North  
Fargo, ND 58102-4839**

ORDINANCE AMENDING SECTIONS 25-3301, 25-3302,  
25-3303, 25-3305 AND 25-3306 OF ARTICLE 25-33  
OF CHAPTER 25 OF THE FARGO MUNICIPAL CODE  
RELATING TO BODY ART AND BODY ART  
ESTABLISHMENTS, INCLUDING TATTOOS AND BODY PIERCING

Be It Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. Amendment.

Section 25-3301 of Article 25-33 of Chapter 25 of the Fargo Municipal Code is hereby amended to read as follows:

25-3301. Definitions. As used in this ordinance, unless the context otherwise indicates, the following definitions shall apply:

1. "Body Art" means the practice of physical body adornment by permitted establishments and operators using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and scarification.
2. "Body Art Establishment" means any place or premise where the practices of body art, whether or not for profit, are performed, except where such practices are performed by a physician or surgeon who has a current license for the practice of medicine issued by the State of North Dakota pursuant to Chapter 43-17 of the North Dakota Century Code.
3. "Body Piercing" means puncturing or penetration of the skin of a person with presterilized single-use needles and the insertion of presterilized jewelry or other adornment thereto in the opening, except that puncturing the outer perimeter or lobe of the ear with a presterilized single-use stud-and-clasp-ear-piercing system shall not be included in this definition.
4. "Department" means Fargo Cass Public Health, or its authorized representatives.
5. "Ear Piercing" means the puncturing of the non-cartilaginous perimeter or lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system following manufacturer's instructions.
6. "Gross incompetence" means any serious lack of ability or knowledge to perform one's duty in a sanitary manner or failure to comply with these regulations. It shall also mean any conduct which endangers the public's health or safety.

7. "Operator" means any person who controls, operates, manages, conducts, or practices body art activities at a body art establishment. The term includes an assistant or technician who performs body art activities and who works under the supervision, control or authority of somebody else who is an operator.

8. "Person" means an individual, any form of business or social organization or any other non-governmental legal entity, including but not limited to corporations, partnerships, limited-liability companies, trusts or unincorporated organizations.

9. "Physician" means a person currently licensed by the state of North Dakota to practice medicine pursuant to the provisions of chapter 43-17 of the North Dakota Century Code.

10. "Tattooing" means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.

### Section 2. Amendment.

Section 25-3302 of Article 25-33 of Chapter 25 of the Fargo Municipal Code is hereby amended to read as follows:

25-3302. Unlawful to operate body art establishment without permit-- Exemptions.--It shall be unlawful to operate a body art establishment unless a permit is first obtained from the city auditor. The provisions of this article do not apply to physicians, or a person working under the direct supervision of a physician in the physician's office or clinic, nor to individuals who pierce only the non-cartilaginous perimeter and lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system are exempt from these regulations; provided, however, that such individuals shall not be exempt from the applicable U.S. Food and Drug Administration requirements.

### Section 3. Amendment.

Section 25-3303 of Article 25-33 of Chapter 25 of the Fargo Municipal Code is hereby amended to read as follows:

25-3303. Permit to operate body art establishment issued annually--Fee-- Application form--Display of permit required--Health Department to enforce regulations

- A. The permit described in §25-3302 hereof shall be issued annually, January 1<sup>st</sup>, by the city auditor after an inspection and approval of the proposed body art establishment by the city health officer or his designee. The fee therefor shall be as established by resolution of the board of city commissioners and applicants shall complete and sign an application form furnished by the city auditor along with a scale drawing and floor plan of the proposed body art establishment. The permit shall be non-transferable. The permit shall be displayed prominently in the body art establishment where it may be readily observed by clients.
- B. The city health officer is authorized to promulgate regulations creating minimum standards for body art establishments pertaining to the facilities, preparation and care of the body art area, education and information for prospective clients, professional standards for the body art operators/technicians, sanitation and sterilization procedures, requirements for single use items, maintenance and retention of records of body art procedures, and requirements for posting of notices and information regarding body art, which regulations may be enforced by the city health officer after they are approved by the city commission, notice of which is to be given pursuant to the provisions of §13-0101 of the Fargo Municipal Code. A copy of such regulations shall be posted in all Body Art Establishments in a prominent location so that they may be read by clients and by operators and technicians of a body art establishment.

#### Section 4. Amendment.

Section 25-3305 of Article 25-33 of Chapter 25 of the Fargo Municipal Code is hereby amended to read as follows:

25-3305. Licenses--Termination, suspension, revocation.--All permits issued under the provisions of this article, unless otherwise specifically provided, shall terminate on December 31st following the date of issuance; provided, however, that any license issued under the provisions of this article may, under certain circumstances, be terminated, suspended or revoked by the commission.

- A. The commission may, in its discretion, suspend or revoke for cause any permit issued under the provisions of this article. The grounds for suspension or revocation shall, among others, include the following:
1. The permittee has filed a petition in bankruptcy.
  2. The permittee does not remit the annual renewal fee.
  3. An individual permittee, one of the partners in a partnership permittee, or one of the officers in a corporation permittee, or any individual in active management of the permitted business is convicted of violating any of the provisions of this article.
  4. The permittee has been convicted of a felony under the laws of the United States or under the laws of one of the several states.
  5. The permittee has made any false statement in his application for a permit.
  6. The permittee has demonstrated gross incompetence and/or has violated one or more of the regulations created pursuant to Fargo Municipal Code §25-3303(B).
  7. The permittee interferes with the health department or its agents and assistants in the performance of its duties.
- B. The health department may temporarily suspend the permit and order the establishment immediately closed if immediate danger to the public health or safety is found, unless the danger is immediately corrected.
- C. The grounds enumerated in subsection (A) and (B) of this section shall not be deemed to be exclusive and any permit issued under the provisions of this article may be suspended or revoked by the commission for any other reason deemed by the commission to be sufficient in order to promote and protect the health, safety, and welfare of the public. When any permit is suspended or revoked by the commission pursuant to the provisions of this section, or when the permittee voluntarily ceases business, no portion of the permit fee previously paid shall be returned to the permittee or to anyone claiming under or through him.

- D. No permit issued under the provisions of this article shall be suspended or revoked for cause by the commission without a public hearing. In the event that the commission intends to consider the suspension or revocation of any permit for cause, it shall direct the city auditor to notify the permittee of its intention to consider the same. The notice shall specify the time and place of the suspension or revocation hearing and shall be served upon the permittee or his managing agent in the same manner as provided by law for the service of a summons in a civil action. No suspension or revocation hearing shall be held before the expiration of 15 days after the date of the service of the notice upon the permittee.

If, upon such hearing, it appears to the commission that sufficient cause exists for the suspension or revocation of a permit issued pursuant to the provisions of this article, the commission shall make its order suspending or revoking the said permit.

#### Section 5. Amendment.

Section 25-3306 of Article 25-33 of Chapter 25 of the Fargo Municipal Code is hereby amended to read as follows:

25-3306. Unlawful practices.--In addition to such other prohibitions as are contained in this article:

- A. No person shall perform body art on any body part of a person under the age of 18 without the written consent of the parent or legal guardian of such minor and without said parent or legal guardian being present during such procedure.
- B. No person shall obtain or attempt to obtain any body art establishment permit by means of fraud, misrepresentation or concealment.
- C. No person shall perform body art procedures unless such procedures are performed in a body art establishment with a current permit.
- D. No person shall perform body art procedures unless they are at least 18 years of age.

- E. No person shall interfere with a health department officer in the performance of an inspection or in the performance of any other of his duties.
- F. Willful failure by the permittee to post regulations which are required to be posted pursuant to §25-3303 of this article shall be unlawful.

Section 6. Effective Date.

This ordinance shall be in full force and effect from and after its passage, approval and publication.

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Bruce W. Furness, Mayor

Attest:

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Steyen Sprague, City Auditor

First Reading:  
Second Reading:  
Final Reading:  
Publication:

CITY OF FARGO  
REGULATIONS FOR OWNERS AND OPERATORS  
OF BODY ART ESTABLISHMENTS

The following regulations, promulgated by the Fargo Health Department and approved by resolution of the Board of City Commissioners of the City of Fargo on the \_\_\_\_\_ day of \_\_\_\_\_, 2000, as authorized by Section 25-3303 of the Fargo Municipal Code, must be posted in all Body Art Establishments in a prominent location so that they may be read by clients and by operators of a Body Art Establishment.

**Section I. Definitions**

The following terms used in these regulations shall be defined as follows:

- 1.1 **"AFTERCARE"** shall mean written instructions given to the client, specific to the body art procedure(s) rendered, about caring for the body art and surrounding area. These instructions will include information about when to seek medical treatment, if necessary.
- 1.2 **"ANTISEPTIC"** shall mean an agent that reduces disease-causing micro-organisms on human skin or mucosa.
- 1.3 **"BODY ART"** shall mean the practice of physical body adornment by permitted establishments and operators using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and scarification. This definition does not include any other form of unregulated invasive body modification and practices that are considered medical procedures by the state board of medical examiners, such as implants under the skin, which shall not be performed in a body art establishment. Nor does this definition include, for the purposes of this Article, piercing of the non-cartilaginous outer perimeter or lobe of the ear with presterilized single-use stud-and-clasp ear-piercing systems.
- 1.4 **"BODY ART ESTABLISHMENT"** shall mean any place or premise where the practices of body art, whether or not for profit, are performed, except where such practices are performed by a physician or surgeon who has a current license for the practice of medicine issued by the State of North Dakota pursuant to Chapter 43-17 of the North Dakota Century Code.
- 1.5 **"BODY PIERCING"** shall mean puncturing or penetration of the skin of a person with presterilized single-use needles and the insertion of presterilized jewelry or other adornment thereto in the opening, except that puncturing the outer perimeter or lobe of the ear with a presterilized single-use stud-and-clasp-ear-piercing system shall not be included in this definition.

- 1.6 **"BRANDING"** shall mean inducing a pattern of scar tissue by use of a heated material (usually metal) to the skin, making a serious burn, which eventually becomes a scar.
- 1.7 **"CONTAMINATED WASTE"** shall mean any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 Code of Federal Regulations Part 1910.1030 (latest edition), known as "Occupational Exposure to Bloodborne Pathogens."
- 1.8 **"COSMETIC TATTOOING"** see "TATTOOING".
- 1.9 **"DEPARTMENT"** shall mean Fargo Cass Public Health, or its authorized representatives.
- 1.10 **"DISINFECTION"** shall mean the reduction of disease-causing micro-organisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.
- 1.11 **"EAR PIERCING"** shall mean the puncturing of the non-cartilaginous perimeter or lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system following manufacturer's instructions.
- 1.12 **"EQUIPMENT"** shall mean all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the operation of a body art establishment.
- 1.13 **"HAND-SINK"** shall mean a lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms, or other portions of the body.
- 1.14 **"HOT WATER"** shall mean water that attains and maintains a temperature of at least 100° Fahrenheit.
- 1.15 **"INSTRUMENTS USED FOR BODY ART"** shall mean hand pieces, needles, needle bars, and other instruments that may come in contact with a client's body or may be exposed to bodily fluids during body art procedures.
- 1.16 **"INVASIVE"** shall mean entry into the body either by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to puncture, break, or compromise the skin or mucosa.
- 1.17 **"JEWELRY"** shall mean any personal ornament inserted into a newly pierced area, which must be made of surgical implant-grade stainless steel; solid 14k or 18k white or yellow gold, niobium, titanium, or platinum; or a dense, low-porosity plastic, which is free of nicks, scratches, or irregular surfaces and has been properly sterilized prior to use.

- 1.18. **"LIQUID CHEMICAL GERMICIDE"** shall mean a disinfectant or sanitizer registered with the U.S. Environmental Protection Agency or an approximately 1:100 dilution of house hold chlorine bleach made fresh daily and dispensed from a spray bottle (500-ppm, ¼ cup per gallon or 2 tablespoons per quart of tap water).
- 1.19 **"OPERATOR"** shall mean any person who controls, operates, manages, conducts, or practices body art activities at a body art establishment. The term includes an assistant or technician who performs body art activities and who works under the supervision, control or authority of somebody else who is an operator.
- 1.20 **"PERMIT"** shall mean written approval issued by the city auditor to operate a body art establishment.
- 1.21 **"PERSON"** shall mean an individual, any form of business or social organization or any other non-governmental legal entity, including but not limited to corporations, partnerships, limited-liability companies, trusts or unincorporated organizations.
- 1.22 **"PHYSICIAN"** shall mean a person currently licensed by the state of North Dakota to practice medicine pursuant to the provisions of chapter 43-17 of the North Dakota Century Code.
- 1.23 **"PROCEDURE SURFACE"** shall mean any surface of an inanimate object that contacts client's unclothed body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure, or any associated work area which may require sanitizing.
- 1.24 **"SANITIZATION PROCEDURE"** shall mean a process of reducing the number of micro-organisms on surfaces and equipment to a safe level as judged by public health standards and which has been approved by the Department.
- 1.25 **"SCARIFICATION"** shall mean altering skin texture by cutting the skin and controlling the body's healing process in order to produce wounds, which result in permanently raised wheals or bumps known as keloids.
- 1.26 **"SHARPS"** shall mean any objects (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa, including , but not limited to , presterilized, single-use needles; and scalpel blades.
- 1.27 **"SHARPS CONTAINER"** shall mean puncture-resistant, leak-proof container that can be closed for handling, storage, transportation, and disposal and that is red in color and labeled with the International Biohazard Symbol.
- 1.28 **"SINGLE USE"** shall mean products or items that are intended for one-time, one-person use and are disposed of after use on each client, including, but not limited to, cotton

swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary covering, razors, piercing needles, scalpel blades, stencil cups, and protective gloves.

- 1.29 **"STERILIZATION"** shall mean a very powerful process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.
- 1.30 **"TATTOOING"** shall mean any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.
- 1.31 **"ULTRASONIC UNIT"** shall mean a unit approved by the Department, physically large enough to fully submerge instruments in liquid, which removes all foreign matter from the instruments by mean of high frequency oscillations transmitted through the contained liquid.
- 1.32 **"UNIVERSAL PRECAUTIONS"** shall mean a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers" in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol. 38, No. S-6, and as "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures", in NNWR, July 12, 1991, Vol. 40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include handwashing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood-and body fluid-contaminated products.

**Section II. Premises Requirements.** The following are the requirements for construction, materials and condition of a body art establishment:

- 2.1 All walls, floors, ceilings, and procedure surfaces of a body art establishment shall be smooth, nonabsorbent, free of open holes or cracks, light-colored, washable, and of nonporous material that is in good repair. Carpeting is prohibited in procedure rooms, sterilizer rooms, and restrooms. Walls, floors, and ceilings shall be maintained in a clean condition. All procedure surfaces, including client chairs/benches, beds, tables, armrests, or countertops shall be of such construction as to be easily cleaned and sanitized after each client and maintained in good repair. In general, the entire premises of the body art establishment must be kept clean and in good condition at all times. All body art establishments shall be completely separated by solid partitions or by walls extending from floor to ceiling, from any room used for human habitation, any food establishment or room where food is prepared, any hair salon, any retail sales, or any other such activities that may cause potential contamination of work surfaces, exposed equipment, or client procedure sites.

- 2.2 Effective measures shall be taken by the body art operator to protect against entrance into the establishment and against the breeding or presence on the premises of insects, vermin, and rodents. Insects, vermin, and rodents shall not be present in any part of the establishment, its appurtenances, or appertaining premises.
- 2.3 There shall be adequate floor space for the operator in each procedure room. Each establishment shall have procedure rooms that may be closed and/or screened from public view for clients requesting privacy.
- 2.4 The establishment shall be well-ventilated and provided with an artificial light source equivalent to at least 20 foot-candles at a height of 3 feet off the floor, except that at least 100 foot-candles shall be provided at the level where the body art procedure is being performed, and where instruments and sharps are assembled.
- 2.5 No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities (e.g., seeing eye dogs). Fish aquariums shall be allowed in waiting rooms and nonprocedural areas.
- 2.6 A separate, readily accessible hand-sink with hot and cold running water, under pressure, preferably equipped with wrist-or foot-operated controls and supplied with liquid soap, and disposable paper towels shall be readily accessible in each procedure room. One hand-sink shall serve no more than one operator. In addition, there shall be a minimum one lavatory, excluding any service sinks, and one toilet in a body art establishment.
- 2.7 At least one covered waste receptacle shall be provided in each procedure room and each toilet room. Receptacles in the procedure rooms shall be emptied daily and solid waste shall be removed from the premises at least weekly. All refuse containers shall be lidded, cleanable, and kept clean.
- 2.8 All instruments and supplies shall be stored in clean, dry, and covered containers.
- 2.9 Reusable cloth items shall be mechanically washed with detergent and chlorine bleach and dried after each use. Use linens shall be stored in a closed or covered container until laundered. The cloth items shall be stored in a dry, clean environment until used.

**Section III. Body Art Operator Requirements And Professional Standards.** The following information shall be kept on file on the premises of a body art establishment and available for inspection by the Department:

- 3.1 Information about each employee of a body art establishment
  - 3.1.1 employee's full name and exact duties;
  - 3.1.2 date of birth;
  - 3.1.3 gender;
  - 3.1.4 home address;
  - 3.1.5 home and work telephone numbers;
  - 3.1.6 identification photos of all body art operators.
- 3.2 Information about the body art establishment:
  - 3.2.1 establishment name;
  - 3.2.2 name and address of each person who has an ownership interest in the body art establishment.
  - 3.2.3 complete description of all body art procedures performed.
  - 3.2.4 inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers, lot numbers and dates of manufacture unless such information is not available on the packaging of such product, in which case such information as will otherwise identify the product must be inventoried, such as copies of invoices or orders.
- 3.3 A copy of these regulations.

**Section IV. Preparation And Care Of The Body Art Area.** A Body Art Establishment shall maintain the body art area in conformance with the following practices:

- 4.1 Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where the body art procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation, depending on the type of body art to be performed. If shaving is necessary, single-use disposable razors shall be used. Razors shall be discarded after each use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.
- 4.2 In the event of blood flow, all products used to check the flow of blood or to absorb blood shall be single use and disposed of immediately after use in appropriate covered containers, unless the disposal products meet the definition of contaminated waste (see definition). The use of styptic pencils or alum solids shall not be used to check the flow of blood.

**Section V. Education and Information Requirements.** Body Art Establishments and all operators shall provide information and education to prospective clients and to gather information from them as follows:

- 5.1 All clients requesting body art shall be given educational information about body art procedures by the body art establishment both verbally and in writing prior to the commencement of any such procedure. Written educational information shall be approved by the Department. Verbal and written instructions, approved by the

Department, for the aftercare of the body art procedure site shall be provided to each client by the operator upon completion of the procedure. The written instructions shall advise the client to consult a physician at the first sign of infection and shall contain the name, address, and phone number of the establishment. These documents shall be signed and dated by both parties, with a copy given to the client and the operator retaining the original with all other required records. In addition, all establishments shall prominently display a Disclosure Statement, provided by the Department, which advises the public of the risks and possible consequences of body art services. The facility permit holder shall also post in public view the name, address and phone number of the local/state Department that has jurisdiction over this program and the procedure for filing a complaint. The Disclosure Statement and the Notice for filing a Complaint shall be included in the establishment Permit Application Packet.

- 5.2 So that the operator can properly evaluate the client's personal history before receiving a body art procedure and not violate the client's rights or confidential medical information, the operator shall ask for the information as follows:

In order for proper healing of your body art procedure, we ask that you disclose if you have or have had any of the following conditions which may suggest the need to consult with a licensed physician before a body art procedure.

- i. diabetes;
- ii. history of hemophilia (bleeding);
- iii. history of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectant, etc.;
- iv. history of allergies or adverse reactions to pigments, dyes, or other skin sensitivities;
- v. history of epilepsy, seizures, or fainting;
- vi. use of medications other than routine antibiotics, allergy medication or birth control pills
- vii. Hepatitis
- viii. HIV positive
- ix. High blood pressure, heart disease
- x. Pregnancy
- xi. Contagious diseases
- xii. Immune system disorders
- xiii. Serious physical or mental health problems

- 5.3 The operator should ask the client to sign a Release Form confirming that the above information was obtained or that the operator attempted to be obtained. The client should be asked to disclose any other information that would aid the operator in evaluating the client's body art healing process.

- 5.4 Nothing in these Regulations shall be construed to require the operator to perform a body art procedure upon a client.

**Section VI. Body Art Operator Professional Standards.** Body art operators shall comply with the following practices:

- 6.1 No person shall perform body art while under the influence of alcohol or drugs. No person shall perform body art on a person who the operator knows is under the influence of alcohol or drugs, or has reason to believe may be otherwise legally incapacitated or incompetent.
- 6.2 Body art operators must be at least 18 years of age.
- 6.3 Smoking, eating and drinking is prohibited in the body art procedure area.
- 6.4 An operator shall refuse service to any person who, in the opinion of the operator, is under the influence of alcohol or drugs or whom the operator has reasonable grounds to believe is legally incapacitated. The operator may decline to perform a procedure on any would-be patron whom the operator suspects to have a communicable disease.
- 6.5 The operator shall be free of communicable diseases that may be transmitted to a patron, maintain a high degree of personal cleanliness, conform to hygienic practices, and wear clean clothes when performing body art procedures. Before performing a body art procedure, the operator must thoroughly wash his or her hands in hot running water with liquid soap, rinse hands and dry them with disposable paper towels. This shall be done as often as necessary to remove contaminants.
- 6.6 The operator shall be vaccinated against the Hepatitis B virus. The operator is responsible for ensuring that all individuals working at their establishment initiate the Hepatitis B vaccination series within thirty (30) days of starting work unless, the individuals have previously received the complete Hepatitis B vaccination series and can provide documentation to the Department, antibody testing has revealed that the individual is immune, or the vaccine is contraindicated for medical reasons.
- 6.7 The operator shall be certified in CPR. The operator is responsible for ensuring that all individuals working at their establishment are certified in CPR.
- 6.8 In performing body art procedures, the operator shall wear disposable medical gloves. Gloves must be changed if they become contaminated by contact with any nonclean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed before the next set of gloves is donned. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable medical gloves does not preclude or substitute for handwashing procedures as part of a good personnel hygiene program.

- 6.9 If, while performing a body art procedure, the operator's glove is pierced, torn, or otherwise contaminated, the procedure delineated in subparagraph 6.8 shall be repeated immediately. The contaminated gloves shall be immediately discarded, and the hands washed thoroughly (see 6.8 above) before a fresh pair of gloves is applied. Any item or instrument used for body art that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.
- 6.10 Contaminated waste, as defined in this code, that may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled must be placed in an approved "red" bag marked with the International Biohazard Symbol. It must then be disposed of by a waste hauler approved by the department or, at a minimum, in compliance with 29 CFR Part 1910.1030, "Occupational Exposure to Bloodborne Pathogens". Sharps ready for disposal shall be disposed of in approved sharps containers. Contaminated waste that does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled may be placed in a covered receptacle and disposed of through normal, approved disposal methods. Storage of contaminated waste on site shall not exceed the period specified by the department or more than a maximum of 30 days, as specified in 29 CFR Part 1910.1030, whichever is less.
- 6.11 No person shall perform any body art procedure upon a person under the age of 18 years without the presence, written consent, and proper identification of a parent, legal custodial parent, or legal guardian. The age of all patrons should be verified via picture identification and documented prior to the procedure being performed. Picture identification, or other proper identification, of all patrons under the age of 18 years must be photocopied and kept with the patron's paperwork. Nothing in this section is intended to require an operator to perform any body art procedure on a person under 18 years of age with parental or guardian consent.
- 6.12 Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
- 6.13 The skin of the operator shall be free of rash or infection. Unless an impermeable cover such as a bandage, finger cot, and medical glove protects the lesion, no person or operator affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that that person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.
- 6.14 All infections, complications, or diseases resulting from any body art procedure that become known to the operator shall be reported to the Department by the operator within 24 hours.

- 6.15 Under no circumstances shall ear piercing studs and clasps be used anywhere on the body other than the non-cartilaginous perimeter and lobe of the ear.

**Section VII. Sanitation And Sterilization Procedures.** All body art establishments and operators shall comply with the following sanitation and sterilization procedures:

- 7.1 All non-single-use, nondisposable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water or by following the manufacturer's instructions, to remove blood and tissue residue, and shall be placed in an ultrasonic unit also operated in accordance with manufacturer's instructions.
- 7.2 After being cleaned, all nondisposable instruments used for body art shall be packed individually in peel-packs and subsequently sterilized (see 7.3). All peel-packs shall contain either a sterilizer indicator or internal temperature indicator. Peel-packs must be dated with an expiration date not to exceed six (6) months.
- 7.3 All cleaned, nondisposable instruments, all jewelry and instruments that directly aid in body art procedures, or that may come in contact with instruments that are being used during body art procedures, such as forceps, needle holders, etc. shall be sterilized in a steam autoclave or dry-heat sterilizer (if approved by the Department). The sterilizer shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the sterilization unit must be available for inspection by the Department. Sterile equipment may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing. Sterilizers shall be located away from work stations or areas frequented by the public. If the body art establishment uses only single-use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.
- 7.4 Each holder of a permit to operate a body art establishment shall demonstrate that the sterilizer used is capable of attaining sterilization by monthly spore destruction tests (unless more frequent monitoring is specified by the manufacturer or requested by the Department). These tests shall be verified through an independent laboratory. The permit shall not be issued or renewed until documentation of the sterilizer's ability to destroy spores is received by the Department. These test records shall be retained by the operator for a period of three (3) years and made available to the Department upon request.
- 7.5 Tattoo needles and piercing needles are not reusable under any circumstances. After use, all needles, razors and other sharps shall be immediately disposed of in red Sharps containers, appropriately labeled with the international biohazard symbol. After sterilization, all reusable instruments used for tattooing/body piercing shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.

7.6 All instruments used for tattooing/body piercing shall remain stored in sterile packages until just prior to the performance of a body art procedure. When assembling instruments used for body art procedures, the operator shall wear disposable medical gloves and use medically recognized techniques to ensure that the instruments and gloves are not contaminated.

7.7 All inks, dyes, pigments, needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions. The mixing of inks, dyes, or pigments or their dilution with sterile water is acceptable. Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use sterile paper cups or plastic cups. Upon completion of the tattoo, these single cups or caps and their contents shall be discarded.

**Section VIII. Requirements For Single Use Items.** Single-use, prepackaged, sterilized equipment must be obtained from reputable suppliers or manufacturers and packages must contain a temperature strip or sterilizer indicator. Single-use items shall not be used on more than one client for any reason. After use, all single-use needles, razors and other sharps shall be immediately disposed of in approved sharps containers. All products applied to the skin, including body art stencils, shall be single use and disposable. If the Department approves, acetate stencils shall be allowed for reuse if sanitization procedures (see definition in subpart 1.24 of Section I, above) are performed between uses. Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to be tattooed with sterile gauze or in a manner to prevent contamination of the original container and its content. The gauze shall be used only once and then discarded. Single-use wood spatulas used to remove all creams and other semi-solid substances from containers shall be discarded after use.

**Section IX. Maintenance and Retention of Client Records.** Each body art establishment shall maintain and retain records of all body art procedures administered, which records must include the following:

- 9.1 name, date of birth, and address of the client
- 9.2 date of procedure
- 9.3 time of day of procedure
- 9.4 identification of the materials used (jewelry, inks, etc.)
- 9.5 location on the client's body of the body art procedure(s) performed
- 9.6 full name of the operator who performed the body art
- 9.7 signature of the client; and,
- 9.8 if the client is a minor, signature of the client's parent or legal guardian

The body art establishment shall keep such records confidential. All client records shall be retained for a minimum of three (3) years. All client records shall be confidential, except that they shall be made available to the Department upon request by the Department.

**Section X. Notice Required to Be Posted.** In addition to these Regulations, the public notices entitled "Tattooing Disclosure Statement", "Body Piercing Disclosure Statement", and "Scarification Disclosure Statement" all of which have been approved by the Department, shall be posted in a prominent location in the body art establishment where they may be read by clients. A copy of each such Public Notice is attached hereto and incorporated herein by reference.

# *PUBLIC NOTICE*

## **TATTOOING DISCLOSURE STATEMENT**

- FARGO CASS PUBLIC HEALTH DOES NOT ENDORSE OR RECOMMEND TATTOOING IN ANY FORM.
- FARGO CASS PUBLIC HEALTH PERMITS SIGNIFY SANITATION OF EQUIPMENT AND PROCEDURES ONLY.

**As with any invasive procedure, Tattooing may involve possible health risks.**

**Tattooing could result in:**

- Pain, bleeding, swelling, infection, allergic reaction, scarring of the tattooing area and nerve damage.

**The Tattooing Operator must:**

- Properly cleanse the tattooing site before tattooing
- Use sterilized equipment
- Use sterile tattooing techniques, and
- Inform the Client of proper aftercare of the tattooing area.

**Comments and/or complaints - contact Fargo Cass Public Health, (701) 241-1387 or send written comments to: 401 3<sup>rd</sup> Ave. N., Fargo, ND 58102**

# *PUBLIC NOTICE*

## **SCARIFICATION DISCLOSURE STATEMENT**

- FARGO CASS PUBLIC HEALTH DOES NOT ENDORSE OR RECOMMEND BODY SCARIFICATION IN ANY FORM.
- FARGO CASS PUBLIC HEALTH PERMITS SIGNIFY SANITATION OF EQUIPMENT AND PROCEDURES ONLY.

□  
As with any invasive procedure, Body Scarification may involve possible health risks. Body Scarification could result in:

- Pain, bleeding, swelling, infection, nerve damage, and hypertrophic or keloid scarring of the procedure area.

**The Operator must:**

- Properly cleanse the site before scarification
- Use sterilized equipment
- Use Sterile Scarification Techniques, and
- Inform the Client of proper aftercare of the procedure area.

**Comments and/or complaints - contact Fargo Cass Public Health,  
(701) 241-1387 or send written comments to: 401 3<sup>rd</sup> Ave. N.,  
Fargo, ND 58102**

# *PUBLIC NOTICE*

## **BODY PIERCING DISCLOSURE STATEMENT**

- FARGO CASS PUBLIC HEALTH DOES NOT ENDORSE OR RECOMMEND BODY PIERCING IN ANY FORM.
- FARGO CASS PUBLIC HEALTH PERMITS SIGNIFY SANITATION OF EQUIPMENT AND PROCEDURES ONLY.



**As with any invasive procedure, Body Piercing may involve possible health risks. Body Piercing could result in:**

- Pain, bleeding, swelling, infection, scarring of the pierced area and nerve damage.

**The Piercing Operator must:**

- Properly cleanse the piercing site before piercing
- Use sterilized equipment
- Use Sterile Piercing Techniques, and
- Inform the Client of proper aftercare of the pierced area.

**Comments and/or complaints - contact Fargo Cass Public Health, (701) 241-1387 or send written comments to: 401 3<sup>rd</sup> Ave. N., Fargo, ND 58102**

# HEPATITIS B IMMUNIZATION RECORD

Name of Facility \_\_\_\_\_

Address \_\_\_\_\_

Name of Owner \_\_\_\_\_

Name of operator \_\_\_\_\_

Hire Date \_\_\_\_\_ Date of Birth \_\_\_\_\_ S/S# \_\_\_\_\_

## Hepatitis B Immunization Record:

Date 1<sup>st</sup> shot \_\_\_\_\_ Shot given by \_\_\_\_\_ Facility \_\_\_\_\_

Date 2<sup>nd</sup> shot \_\_\_\_\_ Shot given by \_\_\_\_\_ Facility \_\_\_\_\_

Date 3<sup>rd</sup> shot \_\_\_\_\_ Shot given by \_\_\_\_\_ Facility \_\_\_\_\_

- The Hepatitis B documentation must be kept on file at the Establishment and a copy given to the regulatory authority. A photocopy of the operators CPR certificate should also appear on this form.

## UNIVERSAL PRECAUTIONS

The UNIVERSAL PRECAUTIONS, published by the Centers for Disease Control (CDC), are a set of guidelines which health workers (including PSWs) should employ *consistently with all patients/clients*, in order to prevent parenteral, mucous membrane, and non-intact skin exposure to blood borne pathogens.

The following Universal Precautions have been abstracted for their specific relevance to PSWs.

**1. Needle stick injuries:**

Take care to prevent injuries when using needles, scalpels, and other sharp instruments or devices: a) when handling sharp instruments after procedures; b) when cleaning used instruments; c) when disposing of used needles

\*Do not recap used needles by hand; do not bend, break, or otherwise manipulate used needles by hand

\*Locate these containers as close to the area as is practical.

**2. Gloves and other protective barriers:**

Use protective barriers to prevent exposure to blood/body fluids to which Universal Precautions apply. The types of protective barriers used should be appropriate for the procedures being performed and the type of exposure anticipated.

**3. Hand Washing:**

Immediately and thoroughly wash hands and other skin surfaces that are contaminated with blood/body fluids containing visible blood or other body fluids to which Universal Precautions apply.

**4. Health Problems:**

Health care workers who have weeping dermatitis or draining lesions should refrain from all direct patient/client care and from handling patient-care equipment until the condition has cleared.

**5. Pregnancy:**

Pregnant health care workers are not known to be at greater risk of contracting HIV infection than non-pregnant health care workers. However, they should be especially familiar with, and strictly adhere to, precautions to minimize this risk.

**Excerpted from, "CDC Update: Universal Precautions for prevention of transmission of human immunodeficiency virus, hepatitis B virus, and other blood borne pathogens in health-care settings." Morbidity and Mortality Weekly Report, June 24, 1988; 37 (24): 377-78**

Item #1

First Engrossment SB 2352

2-26-07 9:00 AM

*members of*

Rep. Price and House of Human Services. My name is Sophia Preszler. I am a concerned citizen from district 35, here in Bismarck.

Last week I heard the most profound words come from one of our North Dakota law makers. The words are "Our bodies are the temples of God". Please, allow me to say these words again, since we are so prone to forget. "Our bodies are the temple of God", that being true about us as adults makes us more responsible to see that our young, gullible children are protected up to the age of eighteen years of age against any vice that would disfigure their wonderful God created temple.

For these reasons I am asking that we add an additional amendment to Engrossed Senate Bill 2352. The amendment would be injected between 1. and 2. and all the rest of the parts follow. There are now 5. parts. The additional amendment would read:

2. It is a class B misdemeanor for a person to pierce or tattoo an individual who is under eighteen years of age.

That would bring the piercing and tattooing industry and anyone that would P and T a minor under eighteen years of age under the penalty: which is the true intent of the bill.

Any questions? I would gladly answer them.

Concerned,

*Sophia Preszler*  
Sophia Preszler  
1725 N. 5th Street  
Bismarck, North Dakota 58501  
1-701-255-0269

SB 2352  
Item # 2**What is the APP Position on Stud Guns?**

It is the official position of the Association of Professional Piercers that only sterile disposable equipment is suitable for safe body piercing.

The lack of ability to sterilize the ear piercing guns is one of the issues of concern about such equipment. Blood can aerosolize (become airborne in essentially microscopic particles) and contaminate the gun. If any part of the stud touches any part of the contaminated gun, there is the possibility of transmitting a disease-causing micro organism. The Hepatitis virus can live for extended periods on inanimate surfaces, therefore transmission of such disease through this type of equipment is possible.

Further, most of the ear studs are quite dull, even if slightly pointy. The piercings are accomplished using a considerable amount of force. This is more like a crush injury than a piercing, and feels like one as well. The use of a sharper, sterile object makes for a much safer, gentler, more comfortable piercing.

Other aspects of concern include the fact that the studs are too short for some earlobes, which can result in complications. The jewelry can get completely embedded in ear lobes, even when pierced according to usual practice with a gun. Also, the piercings are difficult to clean thoroughly if too close fitting. The studs do not allow for much room even on slim lobes. Air and blood circulation are limited which can delay or complicate healing. Swelling and/or scar tissue formation can result. Also, the butterfly backing of ear studs have a configuration that can easily trap bacteria adding to the potential risk of infection.

Another problem is that the guns are very easy to misuse. Some who operate them *professionally* have little or no training. Further, many people do not stop at piercing only the lobes, and pierce eyebrows, tongues, nostrils, navels and other body parts with the ear stud guns. Such usage is warned against by most manufacturers, but that does not prevent frequent abuse of the ear piercing gun equipment. This is absolutely inappropriate and very dangerous!

Proper use of sterile, disposable equipment and sterile jewelry in a hygienic environment is the best way to prevent disease transmission during a piercing procedure

ristled toothbrush after the piercing to avoid introducing bacteria into your mouth.

SB  
235-2

If you have a skin piercing (nose, ears, eyebrow, navel), rinse the site in warm water and use a cotton swab to gently remove any crusting. Then apply a dab of a liquid medicated cleanser to the area. Gently turn the jewelry back and forth to work the cleanser around the opening. Avoid alcohol and peroxide, which can dry the skin. Also avoid ointments, which keep oxygen from reaching the piercing and can leave a sticky residue.

### Piercing removal

Piercings often heal over — sometimes quickly — once you remove the jewelry that keeps the hole open.

## Precautions to protect yourself + MINORS

You can decrease the possibility of complications if you go to a reputable piercing or tattoo studio that employs only properly trained and licensed employees. Choose an establishment that's clean and tidy. Also look for and ask about the following:

- MUST HAVE* →
- **An autoclave.** An autoclave is a heat sterilization machine that should be used to sterilize all nondisposable equipment after each customer. Instruments and supplies that can't be sterilized with an autoclave should be disinfected with a commercial disinfectant or bleach solution after each use. These include drawer handles, tables and sinks.
  - **Fresh equipment.** An unused, sterile needle should be used for all piercings. If you're getting a tattoo, watch the tattoo artist and make sure he or she removes a needle and tubes from a sealed package before your procedure begins. Any pigments, trays and containers should be unused as well.
  - **Gloves.** The piercer or tattoo artist must wash his or her hands and put on a fresh pair of latex gloves for each procedure. The piercer or tattoo artist should change those gloves if he or she needs to touch anything else, such as the telephone, during the procedure.
  - **No piercing gun.** Don't receive a piercing from a piercing gun. These devices typically can't be autoclaved, which may increase your risk of infection. And such guns may crush your skin during the piercing, causing more injury.
  - **Appropriate hypoallergenic jewelry.** Brass and nickel jewelry can cause allergic reactions. Look for surgical-grade steel, titanium, 14- or 18-karat gold, or a metal called niobium.

If you're considering a tattoo or piercing, understand the risks and research the process beforehand. Get your body art done correctly and use proper care afterward to reduce the risks.

### ARTICLE TOOLS

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[more information](#)