

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

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.

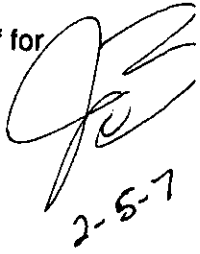
The committee discussed the need for a notarized signature. Discussion continued on tattooing children and if something different should be done than for the piercing.

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.



Handwritten signature and date: 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	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment ~~Senator~~

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

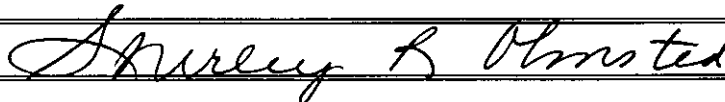
House Human Services Committee

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

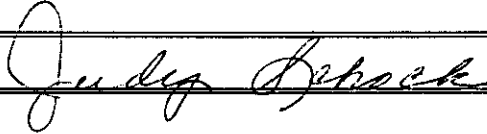
House Human Services Committee

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

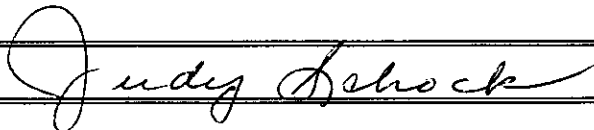
House Human Services Committee

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

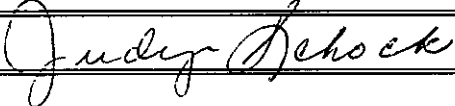
Bill/Resolution No. SB 2352

House Human Services Committee

Check here for Conference Committee

Hearing Date: March 21, 2007

Recorder Job Number: 5415

Committee Clerk Signature	
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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

