

DEPARTMENT TESTIMONY – SENATE BILL 137

An act providing for the licensure and regulation of tattooing and body piercing establishments by the Department of Public Health and Human Services and Local Boards of Health

Good morning Mr. Chairman and members of the committee. For the record, my name is Janet Stetzer. I am a registered sanitarian and the supervisor of the Food and Consumer Safety Section of the Department of Public Health and Human Services.

Montana Department of Public Health and Human Services, tattoo artists and body piercers, and local health officers have collaborated to develop this legislation that would authorize the standardization of sanitation and safety in tattoo and body piercing establishments. Both public health officials and establishment owners and operators welcome this standardization as a means of protecting the integrity of the profession and the health of the public.

In the absence of minimum standards of operation, persons receiving tattoos and body piercings risk exposure to infections. Specifically, these risks are:

- o Exposure to blood-borne pathogens - The viruses that cause Aids, Hepatitis B, and Hepatitis C are transmitted through blood and body fluids. Because these procedures pierce the skin, they afford a route for blood transmission.
- o Post-procedural infection – Insufficient pre-piercing cleansing, appropriate after-care, sterilization of equipment, and cleanliness of facilities increase the possibility of post-procedural infections. Infection may be localized (restricted to the site of piercing) or may involve surrounding tissue. Once an infection enters the blood stream, it has the potential to affect the heart or other organs

The prevention of negative outcomes requires significant knowledge on the part of the operator relating to blood borne pathogens and the prevention of their spread, clinical procedures to maintain equipment sterility and facility cleanliness, client screening procedures to prevent persons with certain health conditions

from endangering themselves, and aftercare instructions to reduce the likelihood of infection.

As public health professionals, we are compelled to look closely at the potential risks to public health inherent in invasive procedures such as tattooing and piercing. It is appropriate and necessary for the department to develop standards of safety and sanitation for these procedures. This bill will grant the department authority to set such standards, to inspect establishments for compliance to standards, to issue licenses, and to collect fees for the administration of these activities. We have proposed those authorities that we believe will benefit both the industry and the public and that are consistent with Oregon, Washington, South Dakota and other northwest states. A majority of states have adopted similar legislation.

The Department firmly believes that the majority of tattoo artists and body-piercers operating in Montana are knowledgeable and reputable. This bill endeavors to protect both legitimate operators and the public from the risks associated with non-standardized establishments and procedures.

March 4, 2005

Representative Jim Keane, Chairman
House Business and Labor Committee
Montana House of Representatives
Helena, Montana

RE: Senate Bill 137

Dear Representative Keane:

Please accept this letter as written testimony by the Yellowstone City-County Health Department in support of Senate Bill 137. It is understood that the hearing date is set for Tuesday March 8, 2005. Testimony in support of SB137 was given earlier during the Senate Public Health, Welfare and Safety Committee hearing.

The Yellowstone City-County Health Department has been successfully regulating and licensing tattoo establishments in Yellowstone County since 1999. Senate Bill 137 will require that both tattoo and body piercing establishments be licensed and inspected throughout the State of Montana by a regulatory authority. Local health departments may adopt rules, require licensure, collect fees and inspect tattoo and body piercing establishments. If local health departments do not choose to adopt such a program, then the Department of Public Health and Human Services will be able to license, collect fees and inspect these establishments.

In the past five (5) years the Yellowstone City-County Health Department has received the support and cooperation of the tattoo professionals in Yellowstone County. The piercing professionals have also expressed their support for this legislation.

The Yellowstone City-County Health Department strongly believes that body piercing and tattooing need to be regulated to insure that public health is protected and will certainly add body piercing establishments to its rules and regulations that will require these establishments to be licensed and inspected upon passage of SB 137.

Therefore, the Yellowstone City-County Health Department is strongly in support of SB 137 and highly recommends that the House Business and Labor Committee pass SB 137.

Sincerely,

Ted Kylander, REHS/RS
Director, E.H. Program

From: Ted Kylander [TedK@ycchd.org]
Sent: Friday, January 14, 2005 1:31 PM
To: Stetzer, Janet
Subject: SB 137
Here is my final copy. TK

January 17, 2005

Senator Brent Cromley, Chairman
Senate Public Health, Welfare and Safety Committee
Montana Senate
Helena, Montana

RE: Senate Bill 137

Dear Senator Cromley and Senate Committee Members:

For the record, my name is Ted Kylander. I am a registered sanitarian and I represent the Yellowstone City-County Health Department where I am the Director of the Environmental Health Program. In Yellowstone County, the Yellowstone City-County Health Department has been successfully regulating tattoo establishments since 1999 and supports SB 137.

In 1995 legislation [MCA 50-1-202 (21)] was enacted to protect the public health by establishing regulations and standards for tattoo establishments. The process of applying a tattoo is an invasive procedure and carries an inherent risk of transmission of bloodborne diseases, such as Hepatitis. Until the 1995 requirements, tattoo establishments were not licensed or regulated in Montana. Unfortunately, in 1995, body piercing establishments were not included in the legislation. Piercing procedures are at least, if not more so, as invasive as tattooing procedures and have the same health concerns as tattooing.

Senate Bill 137 will require that both tattoo and body piercing establishments be licensed and inspected throughout the State of Montana by a regulatory authority. Local health departments may adopt rules, require licensure, collect fees and inspect tattoo and body piercing establishments. If local health departments do not choose to adopt such a program, then the Department of Public Health and Human Services will be able to license, collect fees and inspect these establishments.

After the enactment of the 1995 legislation, the Yellowstone City-County Board of Health adopted regulations for the licensure and inspection of tattoo establishments in Yellowstone County. Currently there are ten (10) licensed tattoo establishments in Yellowstone Co. All ten (10) also do body piercing. The current annual license fee is \$125. Establishments are inspected prior to opening and then one time per year or upon receipt of a complaint. There is at least one (1) business that only does body piercing. Under the current law this establishment is not inspected or held to any standards.

In the past five (5) years the Yellowstone City-County Health Department has received the support and cooperation of the tattoo professionals in Yellowstone County. The piercing professionals have also expressed their support for this legislation.

The number of people of all ages who are getting either a tattoo or body piercing or both is increasing rapidly in the State of Montana. In order to protect public health it is imperative that both tattooing and body piercing establishments be required to meet minimum standards of cleanliness and safety.

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TESTIMONY
SB 137

The Yellowstone City-County Health Department strongly believes that body piercing and tattooing need to be regulated to insure that public health is protected and will certainly add body piercing establishments to its rules and regulations that will require these establishments to be licensed and inspected upon passage of SB 137.

Therefore, the Yellowstone City-County Health Department is strongly in support of SB 137 and highly recommends that the Senate Public Health, Welfare and Safety Committee pass SB 137.

Sincerely,

Ted Kylander, REHS/RS
Director, E.H. Program

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From: Facebydsgn@aol.com
Sent: Friday, January 14, 2005 3:05 PM
To: Stetzer, Janet
Cc: Kateciampi@cs.com; dwalkerd@infostations.com
Subject: Re:
Dear Ms. Stetzer,

The SPCP supports your efforts to establish and enforce reasonable and fair regulations for the tattoo industry with an emphasis on OSHA standards and public safety. We look forward to assisting The Montana Public Health and Human Services Department in any manner possible to establish and realize the goals and objectives set forth in Senate Bill No. 137.

Respectfully yours,

Marjorie Grimm
SPCP President and Publicity Director

To: Jan Stetzer
1400 Broadway
Helena, Mt. 59620
406-444-5309
jstetzer@mt.gov

From: Bill and Linda Woolsey
Tattoos By Big Bill L.L.C.
4775 Hwy 2 West
Columbia Falls, Mt. 59912
406-257-7740
tattoosbybigbill@yahoo.com

Subject: Information to support Senate Bill NO. 137
Introduced By D. Lewis

Date: January 7th, 2005

To whom it may concern,

I am writing you today in response to and support of Senate Bill No. 137. I regret that I am unable to attend this session to offer my support in person. My hope is that sensible and reasonable laws are passed to regulate our growing industry. In addition, I hope that your focus will also grow to include non-professional illegal operators. This type of operation poses an extreme risk to the public.

Tattooing and Body piercing is a medical art form and it should be held to the highest standard. It requires talent, training and experience to be done in a professional manner. A tattoo artist should have a tattooing and/or body piercing apprenticeship that he or she has completed. National tattooing/body piercing organizations are now calling for a three- year program. The apprentice is required to learn from a Master tattoo artist. A tattoo artist should also have a strong artistic background and demonstrated ability. The artistic and technical competency of the artist is extremely important. After all, you don't want to go to a tattoo artist whose artistic ability is at an elementary level. Without the proper knowledge to use their equipment effectively, they pose a higher risk of secondary infection and scarification to their client. A tattoo artist should also possess a strong knowledge of blood born disease prevention. He or she must also maintain high standards concerning the types of inks and equipment they use, always keeping in mind the health and safety of their clients. Severe allergic reactions to tattoo inks are rare. However, Some ink products on the market today pose a much higher risk for allergic reactions and other potential serious health problems. In fact, some of the "certified shops" seem to be more interested in the bottom dollar rather than the safety of their clients. In addition, a professional state certified tattoo/body-piercing studio should look more like a clean medical clinic rather than a dirty, sleazy shop from a Hollywood movie set.

Montana also has a real problem with non-certified non-professional people tattooing and piercing out of their homes and /or their garages. Many of which have learned primitive tattooing in prison and turn to it on the outside as a quick way to make a buck. Without the knowledge of blood born diseases, the proper professional training or equipment they are a high risk for anyone who may receive a tattoo or piercing. At present, there is no rules or regulations to prevent or stop this type of practice. What if it was your son or daughter receiving a tattoo from one of these people? Remember, they do not have an autoclave for sterilization or an inspector to over see their operation. A lot of them use office supply inks and they tend to reuse needles to cut costs or they don't realize what risk this type of operation poses.

There are some of us in Montana who have been fighting for years to make our industry safer for the public. We are hoping that you will stand with us and make it possible to stop the people who are operating in an unsafe manner. Unfortunately, the public seems to think that the laws are already in place and that they are safe no matter where they go because they believe that the State of Montana is looking after them. So lets do the right thing and lets pass some reasonable laws that will protect everyone and help our industry grow into something that we all can be proud of.

Sincerely,

Bill Woolsey
Master Tattoo Artist

SUMMARY – SENATE BILL 137

An act providing for the licensure and regulation of tattooing and body piercing establishments by the Department of Public Health and Human Services and Local Boards of Health

Part 1 – General Provisions

- Section 1. Purpose of Legislation
- Section 2. Definitions
- Section 3. Rulemaking authority
- Section 4. Powers and duties of local boards of health
- Section 5. Injunctions
- Section 6. County attorney to prosecute violations
- Section 7. Penalties – misdemeanor
- Section 8. Civil penalties – injunctions not barred
- Section 9. Costs and expenses – recovery by regulatory authority.

Part 2 – Licensing

- Section 10. License required – fees – application
- Section 11. Late fee – allocation of licensure and late fees
- Section 12. Denial or cancellation of license by regulatory authority
- Section 13. Notice and hearing required for license denial or cancellation

Part 3 – Inspections

- Section 14. Health officers to make investigations and inspections – free access

Part 4 – Revenue

- Section 15. State special revenue account

Part 5 – Amendments

- Section 16. Unlawful transactions with children – Section 45-6-623, MCA
- Section 17. General powers and duties – Section 50-1-202, MCA
- Section 18. Powers and duties of local boards – Section 50-2-116, MCA
- Section 19. Local regulations no more stringent than state regulations or guidelines – Section 50-2-130, MCA

Part 6 – Codification and effective date

- Section 20. Codification instruction
- Section 21. Effective date

QUESTIONS & ANSWERS – SENATE BILL 137

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Why is this legislation necessary? *In the absence of minimum standards of operation, persons receiving tattoos and body piercings are more likely to be exposed to viral and or bacterial infections. In the absence of verification of compliance with minimum standards, the public can have no assurance of safety.*

What are the health risks involved in tattooing and body piercing?

Specifically, these risks are:

- *Exposure to blood-borne pathogens - The viruses that cause AIDS, Hepatitis B, and Hepatitis C are transmitted through blood and body fluids. Because these procedures pierce the skin, they afford a route for blood transmission.*
- *Post-procedural infection – Insufficient pre-piercing cleansing, appropriate after-care, sterilization of equipment, and cleanliness of facilities increase the possibility of post-procedural infections. Infection may be localized or systemic, affecting only the immediate area of piercing or involving other tissues and organs.*

Is there any evidence that anyone has ever suffered these outcomes?

Although we do not have a specific reporting system from health providers, we have received anecdotal reports of post-procedural infections.

Who needs a license? *Any and each establishment providing tattooing or body piercing requires a license.*

Is the license for the operator or the establishment? *The license is issued to the owner of the establishment. It is owner and location specific.*

If you do both tattooing and body piercing, will you need two licenses? *Yes, with reduced fees for the second license.*

How will the license fees be set? *Counties who choose to establish and run their own programs will set license fees based on actual cost. For those counties under the state program, fees will be set in administrative rule based on actual cost.*

How much will the license fees be? *It is anticipated that fees will be \$125 for a single establishment and \$175 for a multiple-type establishment.*

How do the operators feel about this legislation? *The Department's experience with tattoo operators across the state indicates strong interest within the industry for a viable compliance and licensure program.*

Do other states license or regulate these establishments? *Yes. There are 52 laws currently, ranging from simple age restrictions in Wyoming to total bans on the procedures in Oklahoma and South Carolina. Washington, Oregon, and South Dakota are among the states with strong programs.*

Is this legislation modeled after some other state? *We examined several models and developed legislation that was most appropriate to Montana.*

FACT SHEET – SENATE BILL 137

An act providing for the licensure and regulation of tattooing and body piercing establishments by the Department of Public Health and Human Services and Local Boards of Health

INTENT

Senate Bill 137 is intended to protect the public health by requiring the regulation and licensure of Tattoo and Body piercing establishments.

- Establishment owners have expressed their support of licensure as a means of protecting the integrity of their profession.
- The authorization to enforce standards of sanitation and safety is essential to the public health. The invasive nature of these procedures carries an inherent risk of transmission of blood borne pathogens, including HIV, Hepatitis B, and Hepatitis C. Unsanitary processes and inadequate aftercare may also result in wound and systemic infections.

KEY POINTS

SB137:

- Requires licensure for tattooists and body piercers
- Authorizes the department to set standards for sanitation, safety, licensure, enforcement, and fees
- Allows local jurisdictions the option of establishing and running local programs.
 - Local jurisdictions may adopt rules not less stringent than state rule
 - Local jurisdictions may collect fees
 - Local jurisdictions may issue licenses
- Provides for funding of the program through the collection of license fees.

CURRENT REGULATORY STATUS

MCA 50-1-202 (21):

- States that "the department shall adopt and enforce minimum standards for tattooing"
- Does not authorize the collection of fees
- Does not authorize licensing
 - Does authorize certification of sanitation
- Does not authorize the regulation of Body Piercing
- Does not mandate inspection by a regulatory authority
- Does not provide funding or workforce for program

MCA 50-2-116 (2-j-iv):

- Allows local boards of health to adopt rules for the regulation of tattooing, issue licenses, and assess fees
 - Currently 90% of establishments are unregulated by local jurisdictions. Ten establishments are regulated in Yellowstone County.

BACKGROUND

DPHHS has worked closely with local jurisdictions to ensure that adoption of a tattoo and body piercing regulatory and licensing program by local boards of health will be optional; and that, if they opt to establish such a program, they will have the flexibility to fit the program to their needs as long as the minimum standards set by the department are followed.

This is a new model for DPHHS, as it will allow local jurisdictions to issue their own licenses, collect their own fees, and have more involvement in the total operation of their program.

Representatives of local boards of health have expressed their support of this approach and of the legislation.