

3/18/02 Returned to Human Res.

FILED JAN 28 2002

SENATE FILE 2067  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SF 2023)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to body piercing including requiring a permit for  
2 practicing body piercing and prohibiting body piercing of  
3 minors without prior written consent of a parent, providing  
4 for injunctive relief, and providing penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2067

1 DIVISION XV

2 BODY PIERCING

3 Section 1. NEW SECTION. 135.140 BODY PIERCING -- MINORS  
4 -- PENALTY.

5 1. For the purposes of this section:

6 a. "Body piercing" means for commercial purposes the act  
7 of penetrating the skin to make a hole, mark, or scar. "Body  
8 piercing" does not include the use of a mechanized,  
9 presterilized, ear-piercing system that penetrates the outer  
10 perimeter or lobe of the ear, or both.

11 b. "Minor" means an unmarried person who is under the age  
12 of eighteen years.

13 c. "Parent" means a parent, legal guardian, or legal  
14 custodian of a minor.

15 2. A person shall not own, control and lease, act as an  
16 agent for, conduct, manage, or operate an establishment to  
17 practice body piercing or engage in body piercing without  
18 first applying for and receiving a permit from the Iowa  
19 department of public health.

20 3. A person shall not provide body piercing to a minor  
21 unless the written consent of a parent of the minor has been  
22 obtained prior to any body piercing being provided.

23 4. The department shall do all of the following:

24 a. Prescribe the form used in obtaining written consent  
25 from the parent of a minor under this section.

26 b. Provide exceptions to subsection 3 for persons who  
27 perform or receive body piercing pursuant to a recognized  
28 religious tenet or cultural practice.

29 c. Establish safety and sanitation criteria for the  
30 operation of an establishment that provides body piercing.

31 d. Adopt rules pursuant to chapter 17A and establish and  
32 collect all fees necessary to administer this section.

33 5. A person who fails to meet the requirements of  
34 subsection 2 or who provides body piercing to a minor in  
35 violation of subsection 3 is guilty of a serious misdemeanor.

1 6. It is an affirmative defense to a violation of  
2 subsection 3 that the person providing the body piercing was  
3 presented with a driver's license, as defined in section  
4 321.1, subsection 20A, or a nonoperator's identification card  
5 issued pursuant to section 321.190, offered by the individual  
6 who wishes to be provided body piercing, demonstrating that  
7 the individual is not a minor, and the person providing the  
8 body piercing has a reasonable belief based on factual  
9 evidence that the identification is not altered, falsified, or  
10 belongs to another individual.

11 7. If the department determines that this section has been  
12 or is being violated, the department may order that a person  
13 cease providing body piercing until the necessary corrective  
14 action has been taken. If the person continues to provide  
15 body piercing in violation of the order of the department, the  
16 department may request that the county attorney or the  
17 attorney general make an application in the name of the state  
18 to the district court of the county in which the violation has  
19 occurred for an order to enjoin the violation. This remedy is  
20 in addition to any other legal remedy available to the  
21 department.

22 EXPLANATION

23 This bill requires a person who owns, controls and leases,  
24 acts as an agent for, conducts, manages, or operates an  
25 establishment to practice body piercing or to engage in body  
26 piercing to apply for and receive a state permit. The bill  
27 also prohibits a person from providing body piercing to a  
28 minor unless the person obtains the written consent of a  
29 parent of the minor prior to the provision of any body  
30 piercing. A person who does not obtain a permit or who  
31 provides body piercing in violation of the bill is guilty of a  
32 serious misdemeanor. The bill provides that it is an  
33 affirmative defense to a violation of the body piercing  
34 provisions that the person providing the body piercing was  
35 provided with identification showing that the individual

1 seeking the body piercing is not a minor and the person  
2 providing the body piercing reasonably believes that  
3 identification is not altered, falsified, or belongs to  
4 another individual. The bill directs the Iowa department of  
5 public health to prescribe the form to be used in obtaining a  
6 parent's written consent, to adopt rules, to establish and  
7 collect fees to provide for exceptions for performing or  
8 receiving body piercing as prohibited in the bill based upon  
9 religious tenets or cultural practices, and to establish  
10 safety and sanitation criteria for body piercing  
11 establishments. The bill also provides that if the department  
12 determines that a person providing body piercing has been or  
13 is violating the prohibition, the department may order the  
14 person to cease operation until the necessary corrective  
15 action has been taken. The bill provides that if the person  
16 continues to operate in violation of the order of the  
17 department, the department may seek an injunction to enjoin  
18 the violation.

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## SENATE FILE 2067

S-5033

1 Amend Senate File 2067 as follows:  
2 1. By striking everything after the enacting  
3 clause and inserting the following:  
4 "Sec. \_\_\_\_ . Section 135.37, Code 2001, is amended  
5 to read as follows:  
6 135.37 TATTOOING AND BODY PIERCING -- PERMIT  
7 REQUIREMENT PROHIBITIONS -- PENALTY.  
8 1. For the purposes of this section:  
9 a. "Body piercing" means for commercial purposes  
10 the act of penetrating the skin to make a hole, mark,  
11 or scar. "Body piercing" does not include the use of  
12 a mechanized, presterilized, ear-piercing system that  
13 penetrates the outer perimeter or lobe of the ear, or  
14 both.  
15 b. "Minor" means an unmarried person who is under  
16 the age of eighteen.  
17 c. "Parent" means a parent, legal guardian, or  
18 legal custodian of a minor.  
19 ~~1- 2.~~ A person shall not own, control and lease,  
20 act as an agent for, conduct, manage, or operate an  
21 establishment to practice the art of tattooing or to  
22 practice body piercing, and a person shall not engage  
23 in the practice of tattooing or body piercing, without  
24 first applying for and receiving a permit from the  
25 Iowa department of public health.  
26 ~~2- 3. a.~~ A minor shall not obtain a tattoo and a  
27 person shall not provide a tattoo to a minor. ~~For the~~  
28 ~~purposes of this section, "minor" means an unmarried~~  
29 ~~person who is under the age of eighteen years.~~  
30 b. A person shall not provide body piercing to a  
31 minor unless the notarized, written consent of a  
32 parent of the minor has been obtained prior to the  
33 provision of any body piercing.  
34 ~~3- 4.~~ A person who fails to meet the requirements  
35 of subsection ~~1- 2~~ or a person ~~providing a tattoo to a~~  
36 ~~minor who violates subsection 3~~ is guilty of a serious  
37 misdemeanor.  
38 ~~4- 5.~~ The Iowa department of public health shall:  
39 a. Adopt rules pursuant to chapter 17A and  
40 establish and collect all fees necessary to administer  
41 this section. The provisions of chapter 17A,  
42 including licensing provisions, judicial review, and  
43 appeal, shall apply to this chapter.  
44 b. Establish minimum safety and sanitation  
45 criteria for the operation of ~~tattooing~~ establishments  
46 that provide tattooing or body piercing.  
47 c. Prescribe the form used in obtaining the  
48 notarized, written consent from the parent of a minor  
49 under this section.  
50 d. Establish exceptions to the prohibition in

S-5033

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1 subsection 3, paragraph "b" for persons who perform or  
2 receive body piercing pursuant to a recognized  
3 religious tenet or cultural practice.

4 6. It is an affirmative defense to a violation of  
5 subsection 3 that the person providing the body  
6 piercing was presented with a driver's license, as  
7 defined in section 321.1, subsection 20A, or a  
8 nonoperator's identification card issued pursuant to  
9 section 321.190, offered by the individual who wishes  
10 to be provided tattooing or body piercing,  
11 demonstrating that the individual is not a minor, and  
12 the person providing the tattooing or body piercing  
13 has a reasonable belief based on factual evidence that  
14 the identification is not altered, falsified, or  
15 belongs to another individual.

16 ~~5- 7.~~ If the Iowa department of public health  
17 determines that a provision of this section has been  
18 or is being violated, the department may order that a  
19 tattooing or body piercing establishment not be  
20 operated until the necessary corrective action has  
21 been taken. If the establishment continues to be  
22 operated in violation of the order of the department,  
23 the department may request that the county attorney or  
24 the attorney general make an application in the name  
25 of the state to the district court of the county in  
26 which the violations have occurred for an order to  
27 enjoin the violations. This remedy is in addition to  
28 any other legal remedy available to the department."

29 2. Title page, line 1, by striking the words  
30 "including requiring a permit for".

31 3. Title page by striking lines 2 and 3, and  
32 inserting the following: "and tattooing including  
33 permit requirements, prohibitions relating to minors,  
34 providing".

By NEAL SCHUERER  
EUGENE S. FRAISE

**S-5033** FILED FEBRUARY 13, 2002

SEVENTY-NINTH GENERAL ASSEMBLY  
2002 REGULAR SESSION  
DAILY  
**SENATE CLIP SHEET**  
FEBRUARY 5, 2002

**Legislative Fiscal Bureau  
Fiscal Note**

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SF 2067 - Body Piercing (LSB 5418 SV)  
Analyst: Russ Trimble (Phone: (515) 281-4613) (Russ.Trimble@legis.state.ia.us)  
Fiscal Note Version – New  
Requested by Senator Neal Schuerer

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**Description**

Senate File 2067 prohibits a person from providing body piercing to a minor unless the person obtains the written consent of a parent of the minor prior to the body piercing. The Bill requires persons who own; control and lease; act as an agent for; or conduct, manage, or operate an establishment which engages in body piercing to apply for and receive a State permit. The Bill directs the Department of Public Health to:

- Prescribe the form to be used in obtaining a parent's written consent.
- Adopt rules to establish and collect fees.
- Provide for exceptions for performing or receiving body piercings as prohibited in the Bill based upon religious tenets or cultural practices.
- Establish safety and sanitation criteria for body piercing.

**Assumptions**

- 1) The Department of Public Health will adopt rules using the oversight of tattoo parlors as a model.
- 2) Currently, 90 body piercing establishments exist in the State.
- 3) The establishment license fee will be \$25 per year.
- 4) The artist permit fee will be \$40 per year. There are approximately 215 practicing artists in the State.
- 5) Inspections are done once a year at a fee of \$200.
- 6) The Department would retain fees to support the administration of the program.

**Correctional Impact**

Senate File 2067 is not expected to have a significant correctional impact.

**Fiscal Impact**

Senate File 2067 is not expected to have a significant fiscal impact on the State General Fund. Fees of approximately \$29,000 would be collected to cover the costs of administering the regulations.

**Sources**

Department of Public Health

Criminal and Juvenile Justice Planning Division, Department of Human Rights  
Department of Corrections

\_\_\_\_\_/s/ Dennis c Prouty\_\_\_\_

January 31, 2002

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The fiscal note and correction impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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