

FILED JAN 31 1989

SENATE FILE 122  
BY COMMITTEE ON  
HUMAN RESOURCES

(SUCCESSOR TO SSB 64A)

Passed Senate, Date 2/2/89 (p. 277) Passed House, Date 11-13-89 (p. 1586)  
Vote: Ayes 44 Nays 3 Vote: Ayes 82 Nays 13  
Approved May 11, 1989

A BILL FOR

~~3284~~ - An Act relating to the practice of tattooing and providing  
penalties.

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

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SF 122

1 Section 1. NEW SECTION. 139.43 TATTOOING -- PERMIT  
2 REQUIREMENT -- PENALTY.

3 1. A person shall not own, control and lease, act as an  
4 agent for, conduct, manage, or operate an establishment to  
5 practice the art of tattooing or engage in the practice of  
6 tattooing without first applying for and receiving a permit  
7 from the Iowa department of public health.

3778 2. A minor shall not obtain a tattoo and a person shall  
9 not provide a tattoo to a minor. For the purposes of this  
10 section, "minor" means an unmarried person who is under the  
11 age of eighteen years.

12 3. A person who fails to meet the requirements of  
13 subsection 1 or a person providing a tattoo to a minor is  
14 guilty of a serious misdemeanor.

15 4. The Iowa department of public health shall:

16 a. Adopt rules pursuant to chapter 17A and establish and  
17 collect all fees necessary to administer this section. The  
18 provisions of chapter 17A, including licensing provisions,  
19 judicial review, and appeal, shall apply to this chapter.

20 b. Establish minimum safety and sanitation criteria for  
21 the operation of tattooing establishments.

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

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33 EXPLANATION

34 This bill requires a permit to be obtained by a person  
35 engaged in any manner in the practice of tattooing. The bill

1 authorizes the Iowa department of public health to adopt  
2 rules, including rules relating to fees necessary in  
3 administering the section. The bill prohibits a minor from  
4 obtaining a tattoo and prohibits a person from providing a  
5 tattoo to a minor, and provides penalties for violation of the  
6 permit requirements and for providing a tattoo to a minor.  
7 The bill also provides for injunctive relief, and for  
8 application of the provisions of licensing, judicial review,  
9 and appeal pursuant to chapter 17A.

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## SENATE FILE 122

H-3284

Amend Senate File 122 as passed by the Senate as follows:

1. Page 1, by inserting after line 32, the following:

"Sec. \_\_\_\_ . NEW SECTION. 146A.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Abortion" means the use of any means to terminate the pregnancy of a woman known to be pregnant, with knowledge that the termination by those means will with reasonable likelihood cause the death of the fetus.

2. "Fetus" means an individual human organism at any stage from fertilization until birth.

3. "Minor" means a person under the age of eighteen.

4. "Parent" means the natural or adoptive mother and father of the pregnant woman if both are living, the mother or father if either is deceased or cannot be located through reasonably diligent effort, or the pregnant woman's guardian if neither parent is alive or capable of being located.

Sec. \_\_\_\_ . NEW SECTION. 146A.2 CONSENT BY MINOR.

Subject to section 146A.3, a minor may give effective consent for medical, mental, and other health services to determine the presence of or treat pregnancy and related conditions, venereal disease, or alcohol and other drug abuse, and the consent of no other person is required.

Sec. \_\_\_\_ . NEW SECTION. 146A.3 NOTIFICATION CONCERNING TERMINATION OF PREGNANCY -- EXCEPTIONS.

1. Except as provided in subsection 2 or section 146A.5, an abortion operation or procedure shall not be performed upon an unemancipated minor or upon a woman for whom a guardian has been appointed pursuant to chapter 633, until a minimum period of forty-eight hours has expired following service of notice of the pending operation or procedure. Service of notice shall be accomplished by either of the following methods:

a. The notice shall be addressed to the parent at the parent's mailing address and personally served upon the parent by the physician authorized to perform the operation or procedure, or may be served by the physician's agent.

b. The notice shall be addressed to the parent at the parent's mailing address and mailed to the parent by restricted certified mail pursuant to section 618.15, subsection 2.

Service of the notice by mail pursuant to this

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1 section is complete upon receipt by the addressee.

2 2. Notice shall not be required under this section  
3 if any of the following apply:

4 a. The attending physician certifies in the  
5 pregnant woman's medical record that the abortion is  
6 necessary to prevent the woman's death and there is  
7 insufficient time to provide the required notice.

8 b. The abortion is authorized in writing by the  
9 person or persons entitled to notice under this  
10 chapter.

11 c. The pregnant woman declares in writing that she  
12 is a victim of sexual or domestic abuse. It is the  
13 responsibility of the pregnant woman to provide the  
14 attending physician with the declaration.

15 Sec. \_\_\_\_ . NEW SECTION. 146A.4 PENALTIES.

16 Performance of an abortion in violation of this  
17 chapter is a serious misdemeanor and subjects the  
18 offender to civil action by the person denied  
19 notification. A person shall not be held criminally  
20 or civilly liable if the person establishes by  
21 sufficient evidence that the person reasonably and  
22 prudently relied upon the representations of the  
23 pregnant woman regarding information necessary to  
24 comply with this chapter, or the person has made  
25 diligent efforts to serve the required notice, but has  
26 been unable to do so.

27 Sec. \_\_\_\_ . NEW SECTION. 146A.5 NOTIFICATION  
28 ENJOINED.

29 If a pregnant woman objects to notification of one  
30 or both parents or notification of the guardian, a  
31 district court judge shall, upon petition and hearing,  
32 authorize a physician to perform the abortion if the  
33 court finds that the pregnant woman is mature and her  
34 consent should be accepted without notification to one  
35 or both parents or notification of the guardian  
36 regarding the proposed abortion. If the court  
37 determines that the pregnant woman is not mature, or  
38 if the pregnant woman does not claim to be mature, the  
39 court shall determine whether the performance of an  
40 abortion without notification to the pregnant woman's  
41 parent or parents, or guardian, would be in the  
42 pregnant woman's best interests, and if the court so  
43 finds, shall authorize a physician to perform the  
44 abortion without such notification.

45 The pregnant woman may participate in the court  
46 proceedings on her own behalf, and the court may  
47 appoint a guardian ad litem for the pregnant woman.  
48 The court shall inform the pregnant woman of the right  
49 to counsel, and inquire whether the pregnant woman  
50 desires counsel. If so, and the pregnant woman is

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1 unable by reason of indigency to employ any, the court shall appoint counsel.

Proceedings in the court under this section shall be confidential and shall be given priority over other matters pending before the court in order to facilitate an expeditious decision. The court shall enter its order in writing, separately disposing of each ground or part of the petition. The order shall set forth the court's specific factual findings and legal conclusions.

An expedited confidential appeal shall be available to a pregnant woman denied an order of the court authorizing an abortion without notification. An order authorizing an abortion without notification is not subject to appeal.

Filing fees shall be waived for a pregnant woman filing a petition or appeal pursuant to this section. The trial and appellate court shall always be open for purposes of this section.

If a temporary or permanent order enjoining notification under section 146A.3, subsection 1, is stayed or terminated, or otherwise ceases to have effect, that subsection shall be enforced as it would have been before the order, and shall not be considered modified by the operation of this section. In that case, this section is not effective unless and until a subsequent order is entered, again enjoining the operation of section 146A.3, subsection 1."

2. Title page, by striking line 1 and inserting the following: "An Act relating to certain health-related conditions and practices and providing".

By CORBETT of Linn BANKS of Plymouth  
HERMANN of Scott GARMAN of Story

H-3284 FILED MARCH 2, 1989

*Withdrawn 4-13-89 (p.1585)*

SENATE FILE 122

H-3277

1 Amend Senate File 122 as follows:

2 1. Page 1, by striking lines 8 through 14 and  
3 inserting the following:

4 "\_\_\_\_. A person who fails to meet the requirements  
5 of subsection 1, is guilty of a serious misdemeanor."

6 2. By renumbering as necessary.

By CORBETT of Linn

H-3277 FILED MARCH 2, 1989

*LOST 4-13-89 (p.1586)*

RICHARD, CH.  
CARR  
CORNING

SSB 64  
HUMAN RESOURCES  
New

SENATE FILE 122  
BY (PROPOSED DEPARTMENT  
OF PUBLIC HEALTH BILL)

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

**A BILL FOR**

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2 penalties.

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4 agent for, conduct, manage, or operate an establishment to  
5 practice the art of tattooing or engage in the practice of  
6 tattooing without first applying for and receiving a permit  
7 from the Iowa department of public health.

8 2. A person who fails to meet the requirements of  
9 subsection 1 is guilty of a serious misdemeanor and shall be  
10 punished by a fine of not less than one hundred dollars nor  
11 more than five hundred dollars, or by imprisonment in the  
12 county jail for a period of not less than ten days, or by both  
13 a fine and imprisonment.

14 3. The Iowa department of public health shall:

15 a. Adopt rules pursuant to chapter 17A and establish and  
16 collect all fees necessary to administer this section. The  
17 provisions of chapter 17A, including licensing provisions,  
18 judicial review, and appeal, shall apply to this chapter.

19 b. Establish minimum safety and sanitation criteria for  
20 the operation of tattooing establishments.

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

32 EXPLANATION

33 This bill requires a permit to be obtained by a person  
34 engaged in any manner in the practice of tattooing. The bill  
35 provides for penalties for violation of the permit

1 requirements and authorizes the Iowa department of public  
2 health to adopt rules, including rules relating to fees  
3 necessary in administering the section. The bill also  
4 provides for injunctive relief, and for application of the  
5 provisions of licensing, judicial review, and appeal pursuant  
6 to chapter 17A.

7 BACKGROUND STATEMENT

8 SUBMITTED BY THE AGENCY

9 The practice of tattooing involves penetrating the skin  
10 with needles. Consequently, the danger exists to transmit  
11 contagious diseases such as HIV (the virus which causes AIDS).  
12 In fact, a recent investigation in Iowa identified that three  
13 of five individuals diagnosed with Hepatitis B had received  
14 tattoos from the same tattoo parlor during the past year. To  
15 safeguard Iowans from this potential hazard, the State Board  
16 of Health has directed the Department of Public Health to  
17 request authority to regulate the practice of tattooing in  
18 Iowa.

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SENATE FILE 122

the county attorney or the attorney general make an application in the name of the state to the district court of the county in which the violations have occurred for an order to enjoin the violations. This remedy is in addition to any other legal remedy available to the department.

AN ACT  
RELATING TO THE PRACTICE OF TATTOOING AND PROVIDING  
PENALTIES.

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

Section 1. NEW SECTION. 139.43 TATTOOING -- PERMIT  
REQUIREMENT -- PENALTY.

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2. A minor shall not obtain a tattoo and a person shall not provide a tattoo to a minor. For the purposes of this section, "minor" means an unmarried person who is under the age of eighteen years.

3. A person who fails to meet the requirements of subsection 1 or a person providing a tattoo to a minor is guilty of a serious misdemeanor.

4. The Iowa department of public health shall:

a. Adopt rules pursuant to chapter 17A and establish and collect all fees necessary to administer this section. The provisions of chapter 17A, including licensing provisions, judicial review, and appeal, shall apply to this chapter.

b. Establish minimum safety and sanitation criteria for the operation of tattooing establishments.

5. If the Iowa department of public health determines that a provision of this section has been or is being violated, the department may order that a tattooing establishment not be operated until the necessary corrective action has been taken. If the establishment continues to be operated in violation of the order of the department, the department may request that

.....  
JO ANN ZIMMERMAN  
President of the Senate

.....  
DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 122, Seventy-third General Assembly.

.....  
JOHN F. DWYER  
Secretary of the Senate

Approved May 11, 1989

.....  
TERRY E. BRANSTAD  
Governor

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