S T A T E O F N E W Y O R K

4114--A

2011-2012 Regular Sessions

I N A S S E M B L Y

February 1, 2011

Introduced by M. of A. BUTLER, FITZPATRICK, P. RIVERA, MONTESANO, BURLING, DUPREY, JAFFEE -- Multi-Sponsored by -- M. of A. ARROYO, BARCLAY, CALHOUN, CERETTO, McDONOUGH, McLAUGHLIN, PALMESANO -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the penal law, in relation to allowing body piercing and tattooing with parental or guardian consent for persons under the age of eighteen

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The public health law is amended by adding a new section 460-a to read as follows:

S 460-A. RESTRICTIONS ON BODY PIERCING STUDIOS AND TATTOO STUDIOS. 1. NO OWNER, OPERATOR OR EMPLOYEE OF A BODY PIERCING STUDIO OR TATTOO STUDIO SHALL PERMIT BODY PIERCING OR TATTOOING ON A PERSON UNDER EIGHTEEN YEARS OF AGE UNLESS SUCH PERSON PROVIDES THE BODY PIERCING STUDIO OR TATTOO STUDIO WITH THE WRITTEN CONSENT, IN A FORM PRESCRIBED BY THE COMMISSIONER, OF A PARENT OR LEGAL GUARDIAN TO USE SUCH BODY PIERCING STUDIO OR TATTOO STUDIO. THE PARENT OR LEGAL GUARDIAN SHALL SIGN SUCH CONSENT FORM IN THE PRESENCE OF THE OWNER OF THE BODY PIERCING STUDIO OR TATTOO STUDIO OR A BODY PIERCING SPECIALIST OR TATTOO SPECIALIST OF SUCH STUDIO. SUCH ORIGINAL WRITTEN CONSENT SHALL BE RETAINED BY THE BODY PIERCING STUDIO OR TATTOO STUDIO FOR A PERIOD OF TWELVE MONTHS AND MAY BE RETAINED OFF PREMISES PROVIDED THAT AN ELECTRONIC IMAGE OR FACSIMILE OF THE ORIGINAL SIGNED CONSENT FORM IS READILY AVAILABLE BY THE OWNER OR EMPLOYEE RESPONSIBLE FOR THE OPERATION OF THE BODY PIERCING STUDIO OR TATTOO STUDIO.

2. A WRITTEN CONSENT FORM SIGNED BY A PARENT OR LEGAL GUARDIAN PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL EXPIRE TWELVE MONTHS FROM THE DATE IT IS SIGNED BY THE PARENT OR LEGAL GUARDIAN. UPON THE EXPIRA-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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TION OF A WRITTEN CONSENT FORM, A NEW WRITTEN CONSENT SHALL BE PROVIDED IN THE MANNER PRESCRIBED IN SUBDIVISION ONE OF THIS SECTION PRIOR TO THE USE OF A BODY PIERCING STUDIO OR TATTOO STUDIO BY ANY PERSON UNDER EIGHTEEN YEARS OF AGE.

3. THIS SECTION SHALL BE EXCLUSIVE AND SHALL PREEMPT ANY CONTRARY LOCAL LAW OR ORDINANCE, EXCEPT THAT THIS SECTION SHALL NOT PREEMPT OR SUPERSEDE LOCAL LAWS OR ORDINANCES IMPOSING ADDITIONAL STRICTER RESTRICTIONS ON THE OPERATION OF BODY PIERCING STUDIOS AND TATTOO STUDIOS WHICH ARE IN EFFECT PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

S 2. Subdivisions 2 and 3 and the first closing paragraph of section 260.21 of the penal law, as added by chapter 362 of the laws of 1992, are amended to read as follows:

[2. He marks the body of a child less than eighteen years old with indelible ink or pigments by means of tattooing; or

3.] 2. He sells or causes to be sold tobacco in any form to a child less than eighteen years old.

It is no defense to a prosecution pursuant to subdivision [three] TWO of this section that the child acted as the agent or representative of another person or that the defendant dealt with the child as such.

S 3. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.