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

7364

I N S E N A T E

May 14, 2014

Introduced by Sen. GRIFFO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to the sale of materials or paraphernalia for branding, piercing, scarifying, subdermal implanting or tattooing of a child

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

Section 1. The penal law is amended by adding a new section 260.19 to read as follows:

S 260.19 UNLAWFULLY DEALING WITH A CHILD; DEFINITIONS.

FOR THE PURPOSES OF SUBDIVISION FOUR OF SECTION 260.21 OF THIS ARTICLE, THE FOLLOWING DEFINITIONS SHALL APPLY:

1. "BRANDING" MEANS THE USE OF HEAT, COLD OR ANY CHEMICAL COMPOUND TO IMPRINT PERMANENT MARKING ON A PERSON'S SKIN.

2. "PIERCING" MEANS THE PIERCING OF ANY PART OF A PERSON'S BODY, EXCEPT THE EAR.

3. "SCARIFYING" MEANS THE CUTTING, TEARING OR ABRADING OF A PERSON'S SKIN FOR THE PURPOSE OF CREATING A PERMANENT MARK OR DESIGN ON THE SKIN.

4. "SUBDERMAL IMPLANTING" MEANS THE INSERTION OF A FOREIGN OBJECT BENEATH A PERSON'S SKIN FOR THE PURPOSES OF DECORATING THE BODY.

5. "TATTOOING" MEANS TO MARK THE SKIN OF A PERSON BY INSERTION OF INDELIBLE INK OR PIGMENTS BENEATH THE SKIN.

S 2. Section 260.21 of the penal law, as added by chapter 362 of the laws of 1992, the opening paragraph of subdivision 1 as amended by chapter 478 of the laws of 1996, is amended to read as follows:

S 260.21 Unlawfully dealing with a child in the second degree.

A person is guilty of unlawfully dealing with a child in the second degree when:

1. Being an owner, lessee, manager or employee of a place where alcoholic beverages are sold or given away, he OR SHE permits a child less than sixteen years old to enter or remain in such place unless:

(a) The child is accompanied by his OR HER parent, guardian or an adult authorized by a parent or guardian; or

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

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(b) The entertainment or activity is being conducted for the benefit or under the auspices of a non-profit school, church or other educational or religious institution; or

(c) Otherwise permitted by law to do so; or

(d) The establishment is closed to the public for a specified period of time to conduct an activity or entertainment, during which the child is in or remains in such establishment, and no alcoholic beverages are sold, served, given away or consumed at such establishment during such period. The state liquor authority shall be notified in writing by the licensee of such establishment, of the intended closing of such establishment, to conduct any such activity or entertainment, not less than ten days prior to any such closing; or

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

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

4. HE OR SHE SELLS, CAUSES TO BE SOLD, PROVIDES, GIVES OR CAUSES TO BE DELIVERED IN THIS STATE ANY MATERIAL OR PARAPHERNALIA FOR BRANDING, PIERCING, SCARIFYING, SUBDERMAL IMPLANTING OR TATTOOING TO A CHILD LESS THAN EIGHTEEN YEARS OF AGE.

It is no defense to a prosecution pursuant to subdivision three 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.

Unlawfully dealing with a child in the second degree is a class B misdemeanor.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.