

BILL ANALYSIS

C.S.H.B. 2535
By: Uresti
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current Texas law requires tattoo artists to have training in aseptic techniques, but does not set forth requirements for other training topics and does not establish a minimum standard to ensure that tattoo artists actually comply with the requirements. CSHB 2535 would require tattoo artists and persons who perform body piercing to receive initial and recurring training regarding bloodborne pathogens, infection control, and aseptic techniques from the Texas Department of Health (TDH) or a TDH approved course. In addition, CSHB 2535 would make proof of such training a requisite for acquiring or renewing a license or registration for a tattooist, body piercer, and tattoo or body piercing studio or temporary location.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Health in SECTION 7 (Section 146.025, Health and Safety Code) of this bill.

ANALYSIS

CSHB 2535 amends the Health and Safety Code prohibiting a tattoo studio or body piercing studio from employing a tattooist or body piercer unless the person is registered with the Texas Department of Health (TDH). The bill defines body piercer and adds application of permanent cosmetics to the definition of tattoo. The bill sets forth provisions for when TDH is authorized to refuse to issue an original or renewal tattoo studio or body piercing studio license. The bill requires TDH to refuse issuance or renewal of a license, for a period of one year from the date of application for the initial or renewal license, for a premises where a shooting, stabbing, or other violent act or an offense involving drugs occurred that involved a license applicant, license holder, or registrant or a patron or employee of the studio. The bill sets forth provisions for when TDH is authorized to suspend for a period of not more than 60 days or revoke an original or renewal license. The bill sets forth provisions for when TDH is authorized to refuse to renew or after notice and hearing, suspend for a period of no more than 60 days or revoke a license. The bill requires TDH to provide notice of refusal to renew, revocation, or suspension of a license by posting a copy of the order on the front door of the licensed premises if a license holder cannot be located for the required notice. The bill requires the Texas Board of Health (board) to set registration fees and registration renewal fees in amounts necessary to administer this chapter.

CSHB 2535 sets forth provisions for when a tattooist is authorized to tattoo a person younger than 18 years of age. The bill provides that it is a Class B misdemeanor if a person younger than 18 years of age falsely states that the person is 18 years of age or older or presents any document that indicates that the person is 18 years of age or older to a person engaged in the operation of a tattoo or body studio.

CSHB 2535 sets forth provision for when the Commissioner of Public Health (commissioner) may issue an emergency order, with or without notice or hearing, relating to the regulation of a tattooist or body piercer, or to the operation of a tattoo or body piercing studio. The bill requires TDH to set a hearing under Chapter 2001, Government Code to affirm, modify, or set aside the emergency order, if the commissioner issues an emergency order without a hearing. The bill requires TDH to provide notice by posting a copy of the order on the front door of the premises of the license holder or the premises where the registration holder is employed if the license or registration holder cannot be located.

CSHB 2535 prohibits a person from performing tattooing or body piercing at a tattoo or body piercing studio unless the person holds a registration issued by TDH as a tattooist or body piercer under the

provisions of this bill. The bill requires the registration holder to display the registration in a prominent place at each studio or body piercing studio or temporary location where the person is employed. The bill sets forth provisions for what is required to be submitted to receive a tattooist or body piercer registration. The bill provides that a tattooist or body piercer registration is valid for one year from the date of issuance. The bill authorizes the registration to be renewed annually on payment of the required renewal fee and submission of proof of completion of a training course approved by TDH that includes no less than four hours related to bloodborne pathogens, infection control, and aseptic technique.

CSHB 2535 requires TDH to prepare or approve a course of instruction sufficient to meet the requirements for application of registration or renewal of a tattooist or body piercer registration. The bill authorizes TDH to approve a course of instruction based on standards set by TDH to reasonably ensure that a tattooist or body piercer develops the job skills and knowledge necessary to protect public health and safety. The bill requires a prospective course provider to submit the course length and curriculum content for each course offered by the provider for approval by TDH. The bill authorizes the provider to implement a course length and curriculum content only after TDH approval. The bill requires TDH by rule to set a fee in an amount reasonable and necessary to cover the cost of reviewing the course content and issuing approval.

EFFECTIVE DATE

September 1, 2003

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original by adding provisions pertaining to the revocation, suspension and refusal of issuance of a license and registration for a tattooist, body piercer, and a tattoo and body piercing studio. The substitute adds the definition of body piercer to the Health and Safety Code, and adds to the definition of tattoo to include the application of permanent cosmetics. The bill adds the provision that the board is required to set a registration fee and registration renewal fee. The substitute adds provisions for when a tattooist is authorized to tattoo a person younger than 18 years of age. The substitute adds provisions for what the punishment is if a person younger than 18 years of age falsely states that the person is 18 or older or presents any document that indicates that the person is 18 years of age or older to a person engaged in the operation of a tattoo or body piercing studio. The substitute adds provisions for when the commissioner is authorized to issue an emergency order relating to regulation of a tattooist or body piercer or to the operation of a tattoo studio or body piercing studio. The bill adds requirements for TDH to follow in the instance that the commissioner issues an emergency order. The substitute adds provisions pertaining to the registration of a tattooist or body piercer. The substitute adds provisions pertaining to the registration application for a tattooist or body piercer and for the registration term and renewal of registration.

The substitute differs from the original by replacing the provisions that a bloodborne pathogen training program be instituted by O.S.H.A. for tattooist and persons who perform body piercing with the provision that TDH prepare or approve a course of instruction sufficient to meet the requirements for application for a registration or renewal of a registration for a tattooist or a person who performs body piercing, and sets forth provisions for what that course is to include.