

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1317
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Health & Human Services
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Committee Report (Substituted)

DIGEST AND PURPOSE

Current Texas law requires tattoo artists to have training in aseptic techniques, but does not set forth minimum standards for the training. C.S.S.B. 1317 requires tattooists and body piercers to register with the Texas Department of Health, and as part of that registration to receive training regarding bloodborne pathogens, infection control, and aseptic technique. In addition, C.S.S.B. 1317 makes it a Class B misdemeanor for a person younger than 18 to falsely state that the person is 18 or older in order to obtain or in an attempt to obtain a tattoo.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Health in SECTION 7 (Section 146.025, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 146.001, Health and Safety Code, by adding Subdivision (1-a) and amending Subdivision (3), as follows:

(1-a) Defines “body piercer.”

(3) Redefines “tattoo” to include the application of permanent cosmetics.

SECTION 2. Amends Chapter 146, Health and Safety Code, by adding Section 146.0021, as follows:

Sec. 146.0021. EMPLOYMENT OF TATTOOISTS AND BODY PIERCERS; REGISTRATION. Prohibits a tattoo studio or a body piercing studio from employing a tattooist or a body piercer unless the person is registered with the Texas Department of Health (TDH) under this chapter.

SECTION 3. Amends Chapter 146, Health and Safety Code, by adding Sections 146.0041 and 146.0042, as follows:

Sec. 146.0041. GENERAL GROUNDS FOR REFUSAL. (a) Authorizes TDH to refuse to issue an original or renewal tattoo studio or body piercing studio license if it has reasonable grounds to believe and finds that certain circumstances exist.

(b) Requires TDH to refuse to issue or renew, for a period of one year from the date of application for the initial or renewal license, a tattoo studio or body piercing studio 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 under this chapter or a patron or employee of the studio.

Sec. 146.0042. REVOCATION OR SUSPENSION OF LICENSE. (a) Provides that in Subsection (b), “license holder” also includes each member of a partnership or association and, with respect to a corporation, each officer and the owner or owners of a majority of the corporate stock.

(b) Authorizes TDH to suspend for not more than 60 days or revoke an original or renewal tattoo studio or body piercing studio license if it is found, after notice and hearing, that certain facts are true.

(c) Authorizes TDH to refuse to renew or, after notice and hearing, suspend for not more than 60 days or revoke a tattoo studio or body piercing studio license if TDH finds that the license holder is shown on the records of the comptroller as being subject to a final determination of taxes due and payable under Chapter 151 (Limited Sales, Excise, and Use Tax), Tax Code, or is shown on the records of the comptroller as being subject to a final determination of taxes due and payable under Chapter 321 (Municipal Sales and Use Tax Act), Tax Code.

(d) Requires TDH, if a license holder cannot be located for any notice required under this section, to provide notice by posting a copy on the front door of the licensed premises.

SECTION 4. Amends Section 146.005(a), Health and Safety Code, to require the Texas Board of Health to set registration fees and registration renewal fees in amounts necessary to administer this chapter.

SECTION 5. Amends Section 146.012, Health and Safety Code, by amending Subsections (a), (b), and (c), deleting Subsection (d), and adding Subsection (a-1), as follows:

(a) Prohibits a tattooist, except as provided by Subsection (a-1), from tattooing a person younger than 18 years of age or a person who the tattooist suspects is under the influence of alcohol or drugs.

(a-1) Sets forth circumstances under which a tattooist is authorized to tattoo a person younger than 18 years of age.

(b) Removes text authorizing the consent required by Subsection (a-1) to be satisfied by written and notarized consent by the individual's parent or guardian. Makes conforming changes.

(c) Provides that a person younger than 18 years of age commits an offense if the person 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 studio. Makes an offense under this subsection a Class B misdemeanor. Deletes text regarding court orders for tattoo coverage. Deletes the text of Subsection (d) which specifies that parental consent must indicate the location on the person's body at which the tattoo may be placed.

SECTION 6. Amends Section 146.0125, Health and Safety Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Makes conforming changes.

(d) Makes conforming changes.

SECTION 7. Amends Chapter 146, Health and Safety Code, by adding Section 146.021-146.025, as follows:

Sec. 146.021. EMERGENCY ORDERS. (a) Authorizes the commissioner of public health (commissioner), with or without notice or hearing, to issue an emergency order relating to regulation under this chapter of a tattooist or body piercer, or to the operation of a tattoo studio or body piercing studio, if the commissioner finds certain facts to be true.

(b) Requires TDH, if the commissioner issues an emergency order under this section without a hearing, to set a hearing under Chapter 2001 (Administrative Procedure), Government Code, to affirm, modify, or set aside the emergency order.

(c) Requires TDH, if the license or registration holder cannot be located for a notice required under this section, 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.

Sec. 146.022. **REGISTRATION REQUIRED FOR TATTOOISTS AND BODY PIERCERS.** (a) Prohibits a person from performing tattooing or body piercing at a tattoo studio or body piercing studio unless the person holds a registration issued by TDH as a tattooist or body piercer under this section.

(b) Requires the registration holder to display the registration in a prominent place at each tattoo studio or body piercing studio or temporary location where the person is employed.

Sec. 146.023. **REGISTRATION APPLICATION.** Sets forth information that must be submitted by a person applying for a tattooist or body piercer registration.

Sec. 146.024. **REGISTRATION TERM; RENEWAL.** (a) Provides that a tattooist or body piercer registration is valid for one year from the date of issuance.

(b) Authorizes renewal of the tattooist or body piercer registration annually on payment of the required renewal fee and submission of proof of completion of a certain training course.

Sec. 146.025. **COURSE OF INSTRUCTION FOR TATTOOISTS AND BODY PIERCERS; RULES; FEES.** (a) Requires TDH to prepare or approve a course of instruction sufficient to meet the requirements for application for a registration or renewal of registration.

(b) 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.

(c) Requires a prospective course provider to submit to TDH for approval the course length and curriculum content for each course offered by the provider. Authorizes the provider to implement a course length and curriculum content only after TDH approval.

(d) Requires the department by rule to set a fee in an amount reasonable and necessary to cover the cost of reviewing the course content and issuing the approval.

SECTION 8. Makes application of Sections 146.012 and 146.0125, Health and Safety Code, as amended by this Act, prospective.

SECTION 9. Provides that a tattooist or body piercer is not required to hold a registration issued under Chapter 146, Health and Safety Code, as amended by this Act, before June 1, 2004.

SECTION 10. Effective date: September 1, 2003.

SUMMARY OF COMMITTEE CHANGES

This substitute differs from the original in its entirety, including the caption. The original bill created training standards for tattoo artists and persons who perform body piercing.