

AN ACT

relating to the regulation of tattooists, persons who perform body piercing, tattoo studios, and certain body piercing studios and prohibiting the performance of tongue splitting; providing criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

(1-a) "Body piercer" means a person who performs body piercing.

(3) "Tattoo" means the practice of producing an indelible mark or figure on the human body by scarring or inserting a pigment under the skin using needles, scalpels, or other related equipment. The term includes the application of permanent cosmetics.

SECTION 2. Chapter 146, Health and Safety Code, is amended by adding Section 146.0021 to read as follows:

Sec. 146.0021. EMPLOYMENT OF TATTOOISTS AND BODY PIERCERS; REGISTRATION REQUIRED. A tattoo studio or a body piercing studio may not employ a tattooist or a body piercer unless the person is registered with the department under this chapter.

SECTION 3. Chapter 146, Health and Safety Code, is amended by adding Sections 146.0041 and 146.0042 to read as follows:

1 Sec. 146.0041. GENERAL GROUNDS FOR REFUSAL. (a) The
2 department may refuse to issue an original or renewal tattoo studio
3 or body piercing studio license if it has reasonable grounds to
4 believe and finds that any of the following circumstances exist:

5 (1) the applicant has been convicted of a violation of
6 this chapter during the two years immediately preceding the filing
7 of the application;

8 (2) three years have not elapsed since the
9 termination, by pardon or otherwise, of a sentence imposed on the
10 applicant for a conviction associated with tattooing or body
11 piercing;

12 (3) the applicant violated or caused to be violated a
13 provision of this chapter or a rule of the department adopted under
14 this chapter involving moral turpitude during the six months
15 immediately preceding the filing of the application;

16 (4) the applicant failed to answer or falsely or
17 incorrectly answered a question in an original or renewal
18 application;

19 (5) the applicant is indebted to the state for a fee or
20 penalty imposed by this chapter or by rule of the department adopted
21 under this chapter;

22 (6) the applicant is a minor; or

23 (7) the applicant does not provide an adequate
24 building available at the address for which the license is sought
25 before conducting any activity authorized by the license.

26 (b) The department may refuse to issue or renew, for a
27 period of one year from the date of application for the initial or

1 renewal license, a tattoo studio or body piercing studio license
2 for a premises where a shooting, stabbing, or other violent act or
3 an offense involving drugs occurred that involved a license
4 applicant, license holder, or registrant under this chapter or a
5 patron or employee of the studio.

6 Sec. 146.0042. REVOCATION OR SUSPENSION OF LICENSE.

7 (a) In Subsection (b), "license holder" includes each member of a
8 partnership or association and, with respect to a corporation, each
9 officer and the owner or owners of a majority of the corporate
10 stock.

11 (b) The department may suspend for not more than 60 days or
12 revoke an original or renewal tattoo studio or body piercing studio
13 license if it is found, after notice and hearing, that any of the
14 following is true:

15 (1) the license holder has been finally convicted of a
16 violation of this chapter;

17 (2) the license holder violated a provision of this
18 chapter or a rule of the department adopted under this chapter;

19 (3) the license holder made a false or misleading
20 statement in connection with the original or renewal application,
21 either in the formal application itself or in any other written
22 instrument relating to the application submitted to the department;

23 (4) the license holder is indebted to the state for
24 fees or payment of penalties imposed by this chapter or by a rule of
25 the department adopted under this chapter;

26 (5) the license holder knowingly misrepresented to a
27 customer or the public any tattoo or body piercing jewelry sold by

1 the license holder; or

2 (6) the license holder was intoxicated on the licensed
3 premises.

4 (c) The department may refuse to renew or, after notice and
5 hearing, suspend for not more than 60 days or revoke a tattoo studio
6 or body piercing studio license if the department finds that the
7 license holder is shown on the records of the comptroller as being
8 subject to a final determination of taxes due and payable under
9 Chapter 151, Tax Code, or is shown on the records of the comptroller
10 as being subject to a final determination of taxes due and payable
11 under Chapter 321, Tax Code.

12 (d) If a license holder cannot be located for any notice
13 required under this section, the department shall provide notice by
14 posting a copy of the order on the front door of the licensed
15 premises.

16 SECTION 4. Subsection (a), Section 146.005, Health and
17 Safety Code, is amended to read as follows:

18 (a) The board shall set license and registration fees and
19 license and registration renewal fees in amounts necessary to
20 administer this chapter.

21 SECTION 5. Section 146.012, Health and Safety Code, is
22 amended to read as follows:

23 Sec. 146.012. TATTOOS PROHIBITED FOR CERTAIN PERSONS.

24 (a) A tattooist may not tattoo:

25 (1) except as provided by Subsection (a-1), a person
26 younger than 18 years of age [~~without consent from the individual's~~
27 ~~parent or guardian who determines it to be in the best interest to~~

1 ~~cover a tattoo which contains:~~

2 [~~(A) obscene or offensive language or symbols,~~

3 [~~(B) gang-related names, symbols, or markings,~~

4 [~~(C) drug-related names, symbols, or pictures,~~

5 ~~or~~

6 [~~(D) some other type of words, symbols, or~~

7 ~~markings that the court considers would be in the best interest of~~

8 ~~the minor to cover]; or~~

9 (2) a person who [~~whom~~] the tattooist suspects is
10 under the influence of alcohol or drugs.

11 (a-1) A tattooist may tattoo a person younger than 18 years
12 of age if:

13 (1) the tattoo will cover a tattoo that contains:

14 (A) obscene or offensive language or symbols;

15 (B) gang-related names, symbols, or markings;

16 (C) drug-related names, symbols, or pictures; or

17 (D) other words, symbols, or markings that the

18 person's parent or guardian considers would be in the best interest

19 of the person to cover; and

20 (2) the person has obtained consent from the person's
21 parent or guardian to cover the tattoo.

22 (b) The consent required by Subsection (a-1) [~~(a)~~] may be
23 satisfied by[+]

24 [~~(1) written and notarized consent by the individual's~~
25 ~~parent or guardian; or~~

26 [~~(2)~~] the individual's parent or guardian:

27 (1) [~~(A)~~] being physically present at the tattoo

1 studio at the time the tattooing is performed;

2 (2) [~~(B)~~] executing an affidavit stating that the
3 person is the parent or guardian of the individual on whom the
4 tattooing is to be performed;

5 (3) [~~(C)~~] presenting evidence of the person's identity
6 to the person who will perform the tattooing; and

7 (4) [~~(D)~~] presenting evidence of the person's status
8 as parent or guardian of the individual who will receive the tattoo.

9 (c) A person younger than 18 years of age commits an offense
10 if the person falsely states that the person is 18 years of age or
11 older or presents any document that indicates that the person is 18
12 years of age or older to a person engaged in the operation of a
13 tattoo studio. An offense under this subsection is a Class B
14 misdemeanor [~~If a parent or guardian of the minor and the minor~~
15 ~~agree to the covering of a tattoo described by Subsection (a), a~~
16 ~~justice court may issue the order. If the parent or guardian and~~
17 ~~the minor do not agree, the order must be issued by a district court~~
18 ~~or other court with jurisdiction of a suit affecting the~~
19 ~~parent-child relationship or a civil proceeding brought under Title~~
20 ~~3 or 4, Family Code.~~

21 [~~(d) The consent required by Subsection (a) must indicate~~
22 ~~the location on the person's body at which the tattoo may be~~
23 ~~placed].~~

24 SECTION 6. Section 146.0125, Health and Safety Code, is
25 amended by amending Subsection (c) and adding Subsection (d) to
26 read as follows:

27 (c) The consent required by Subsections (a) and (b) may be

1 satisfied by[+]

2 ~~[(1) written and notarized consent by the individual's~~
3 ~~parent or guardian; or~~

4 ~~[(2)]~~ the individual's parent or guardian:

5 (1) ~~[(A)]~~ being physically present at the body
6 piercing studio at the time the body piercing is performed;

7 (2) ~~[(B)]~~ executing an affidavit stating that the
8 person is the parent or guardian of the individual on whom the body
9 piercing is to be performed;

10 (3) ~~[(C)]~~ presenting evidence of the person's identity
11 to the person who will perform the body piercing; and

12 (4) ~~[(D)]~~ presenting evidence of the person's status
13 as parent or guardian of the individual who will receive the body
14 piercing.

15 (d) A person younger than 18 years of age commits an offense
16 if the person falsely states that the person is 18 years of age or
17 older or presents any document that indicates that the person is 18
18 years of age or older to a person engaged in the operation of a body
19 piercing studio. An offense under this subsection is a Class B
20 misdemeanor.

21 SECTION 7. Chapter 146, Health and Safety Code, is amended
22 by adding Section 146.0126 to read as follows:

23 Sec. 146.0126. TONGUE SPLITTING PROHIBITED. (a) For
24 purposes of this section, "tongue splitting" means cutting a human
25 tongue into two or more parts.

26 (b) A person may not perform tongue splitting.

27 SECTION 8. Chapter 146, Health and Safety Code, is amended

1 by adding Sections 146.021 through 146.025 to read as follows:

2 Sec. 146.021. EMERGENCY ORDERS. (a) The commissioner may,
3 with or without notice or hearing, issue an emergency order
4 relating to regulation under this chapter of a tattooist or body
5 piercer, or to the operation of a tattoo studio or body piercing
6 studio, if the commissioner finds:

7 (1) that:

8 (A) the operation of the tattoo studio or body
9 piercing studio or the performance of tattooing or body piercing by
10 the tattooist or body piercer presents an immediate and serious
11 threat to human health; or

12 (B) a shooting, stabbing, or other violent act or
13 an offense involving drugs:

14 (i) occurred at the tattoo studio or body
15 piercing studio; or

16 (ii) involved the tattooist or body
17 piercer; and

18 (2) that other procedures available to the department
19 to remedy or prevent the threat will result in an unreasonable
20 delay.

21 (b) If the commissioner issues an emergency order under this
22 section without a hearing, the department shall set a hearing under
23 Chapter 2001, Government Code, to affirm, modify, or set aside the
24 emergency order.

25 (c) If the license or registration holder cannot be located
26 for a notice required under this section, the department shall
27 provide notice by posting a copy of the order on the front door of

1 the premises of the license holder or the premises where the
2 registration holder is employed.

3 Sec. 146.022. REGISTRATION REQUIRED FOR TATTOOISTS AND BODY
4 PIERCERS. (a) A person may not perform tattooing or body piercing
5 at a tattoo studio or a body piercing studio unless the person holds
6 a registration issued by the department as a tattooist or body
7 piercer under this section.

8 (b) The registration holder shall display the registration
9 in a prominent place at each tattoo studio or body piercing studio
10 or temporary location where the person is employed.

11 Sec. 146.023. REGISTRATION APPLICATION. To receive a
12 tattooist or body piercer registration, the person must submit:

13 (1) a signed registration application to the
14 department on a form prescribed by the department;

15 (2) the application fee; and

16 (3) proof of completion of a training course approved
17 by the department for tattooists and body piercers that includes
18 not less than six hours related to bloodborne pathogens, infection
19 control, and aseptic technique.

20 Sec. 146.024. REGISTRATION TERM; RENEWAL. (a) A tattooist
21 or body piercer registration is valid for one year from the date of
22 issuance.

23 (b) A tattooist or body piercer registration may be renewed
24 annually on:

25 (1) payment of the required renewal fee; and

26 (2) submission of proof of completion of a training
27 course approved by the department that includes not less than four

1 hours related to bloodborne pathogens, infection control, and
2 aseptic technique.

3 Sec. 146.025. COURSE OF INSTRUCTION FOR TATTOOISTS AND BODY
4 PIERCERS; RULES; FEES. (a) The department shall prepare or
5 approve a course of instruction sufficient to meet the requirements
6 for application for a registration under Section 146.023 or renewal
7 of a registration under Section 146.024.

8 (b) The department may approve a course of instruction based
9 on standards set by the department to reasonably ensure that a
10 tattooist or body piercer develops the job skills and knowledge
11 necessary to protect public health and safety.

12 (c) A prospective course provider must submit to the
13 department for approval the course length and curriculum content
14 for each course offered by the provider. The provider may implement
15 a course length and curriculum content only after department
16 approval.

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

20 SECTION 9. (a) The changes in law made by this Act to
21 Sections 146.012 and 146.0125, Health and Safety Code, apply only
22 to an offense committed on or after the effective date of this Act.
23 For purposes of this section, an offense is committed before the
24 effective date of this Act if any element of the offense occurs
25 before the effective date.

26 (b) An offense committed before the effective date of this
27 Act is governed by the law in effect when the offense was committed,

1 and the former law is continued in effect for that purpose.

2 SECTION 10. A tattooist or body piercer is not required to
3 hold a registration issued under Chapter 146, Health and Safety
4 Code, as amended by this Act, before June 1, 2004.

5 SECTION 11. This Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1317 passed the Senate on April 25, 2003, by a viva-voce vote; and that the Senate concurred in House amendments on May 24, 2003, by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 1317 passed the House, with amendments, on May 16, 2003, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor