

1-1 By: Van de Putte S.B. No. 1317  
1-2 (In the Senate - Filed March 12, 2003; March 19, 2003, read  
1-3 first time and referred to Committee on Health and Human Services;  
1-4 April 14, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 14, 2003,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1317 By: Nelson

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the regulation of tattooists, persons who perform body  
1-11 piercing, tattoo studios, and certain body piercing studios;  
1-12 providing criminal penalties.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 146.001, Health and Safety Code, is  
1-15 amended by adding Subdivision (1-a) and amending Subdivision (3) to  
1-16 read as follows:

1-17 (1-a) "Body piercer" means a person who performs body  
1-18 piercing.

1-19 (3) "Tattoo" means the practice of producing an indelible  
1-20 mark or figure on the human body by scarring or inserting a pigment  
1-21 under the skin using needles, scalpels, or other related equipment.  
1-22 The term includes the application of permanent cosmetics.

1-23 SECTION 2. Chapter 146, Health and Safety Code, is amended  
1-24 by adding Section 146.0021 to read as follows:

1-25 Sec. 146.0021. EMPLOYMENT OF TATTOOISTS AND BODY PIERCERS;  
1-26 REGISTRATION REQUIRED. A tattoo studio or a body piercing studio  
1-27 may not employ a tattooist or a body piercer unless the person is  
1-28 registered with the department under this chapter.

1-29 SECTION 3. Chapter 146, Health and Safety Code, is amended  
1-30 by adding Sections 146.0041 and 146.0042 to read as follows:

1-31 Sec. 146.0041. GENERAL GROUNDS FOR REFUSAL. (a) The  
1-32 department may refuse to issue an original or renewal tattoo studio  
1-33 or body piercing studio license if it has reasonable grounds to  
1-34 believe and finds that any of the following circumstances exist:

1-35 (1) the applicant has been convicted of a violation of  
1-36 this chapter during the two years immediately preceding the filing  
1-37 of the application;

1-38 (2) three years have not elapsed since the  
1-39 termination, by pardon or otherwise, of a sentence imposed on the  
1-40 applicant for a conviction associated with tattooing or body  
1-41 piercing;

1-42 (3) the applicant violated or caused to be violated a  
1-43 provision of this chapter or a rule of the department adopted under  
1-44 this chapter involving moral turpitude during the six months  
1-45 immediately preceding the filing of the application;

1-46 (4) the applicant failed to answer or falsely or  
1-47 incorrectly answered a question in an original or renewal  
1-48 application;

1-49 (5) the applicant is indebted to the state for a fee or  
1-50 penalty imposed by this chapter or by rule of the department adopted  
1-51 under this chapter;

1-52 (6) the applicant is a minor; or

1-53 (7) the applicant does not provide an adequate  
1-54 building available at the address for which the license is sought  
1-55 before conducting any activity authorized by the license.

1-56 (b) The department shall refuse to issue or renew, for a  
1-57 period of one year from the date of application for the initial or  
1-58 renewal license, a tattoo studio or body piercing studio license  
1-59 for a premises where a shooting, stabbing, or other violent act or  
1-60 an offense involving drugs occurred that involved a license  
1-61 applicant, license holder, or registrant under this chapter or a  
1-62 patron or employee of the studio.

1-63 Sec. 146.0042. REVOCATION OR SUSPENSION OF LICENSE.

2-1 (a) In Subsection (b), "license holder" includes each member of a  
2-2 partnership or association and, with respect to a corporation, each  
2-3 officer and the owner or owners of a majority of the corporate  
2-4 stock.

2-5 (b) The department may suspend for not more than 60 days or  
2-6 revoke an original or renewal tattoo studio or body piercing studio  
2-7 license if it is found, after notice and hearing, that any of the  
2-8 following is true:

2-9 (1) the license holder has been finally convicted of a  
2-10 violation of this chapter;

2-11 (2) the license holder violated a provision of this  
2-12 chapter or a rule of the department adopted under this chapter;

2-13 (3) the license holder made a false or misleading  
2-14 statement in connection with the original or renewal application,  
2-15 either in the formal application itself or in any other written  
2-16 instrument relating to the application submitted to the department;

2-17 (4) the license holder is indebted to the state for  
2-18 fees or payment of penalties imposed by this chapter or by a rule of  
2-19 the department adopted under this chapter;

2-20 (5) the license holder knowingly misrepresented to a  
2-21 customer or the public any tattoo or body piercing jewelry sold by  
2-22 the license holder; or

2-23 (6) the license holder was intoxicated on the licensed  
2-24 premises.

2-25 (c) The department may refuse to renew or, after notice and  
2-26 hearing, suspend for not more than 60 days or revoke a tattoo studio  
2-27 or body piercing studio license if the department finds that the  
2-28 license holder is shown on the records of the comptroller as being  
2-29 subject to a final determination of taxes due and payable under  
2-30 Chapter 151, Tax Code, or is shown on the records of the comptroller  
2-31 as being subject to a final determination of taxes due and payable  
2-32 under Chapter 321, Tax Code.

2-33 (d) If a license holder cannot be located for any notice  
2-34 required under this section, the department shall provide notice by  
2-35 posting a copy of the order on the front door of the licensed  
2-36 premises.

2-37 SECTION 4. Subsection (a), Section 146.005, Health and  
2-38 Safety Code, is amended to read as follows:

2-39 (a) The board shall set license and registration fees and  
2-40 license and registration renewal fees in amounts necessary to  
2-41 administer this chapter.

2-42 SECTION 5. Section 146.012, Health and Safety Code, is  
2-43 amended to read as follows:

2-44 Sec. 146.012. TATTOOS PROHIBITED FOR CERTAIN PERSONS.

2-45 (a) A tattooist may not tattoo:

2-46 (1) except as provided by Subsection (a-1), a person  
2-47 younger than 18 years of age [without consent from the individual's  
2-48 parent or guardian who determines it to be in the best interest to  
2-49 cover a tattoo which contains.

2-50 [~~(A) obscene or offensive language or symbols,~~

2-51 [~~(B) gang-related names, symbols, or markings,~~

2-52 [~~(C) drug-related names, symbols, or pictures,~~

2-53 ~~or~~

2-54 [~~(D) some other type of words, symbols, or~~  
2-55 ~~markings that the court considers would be in the best interest of~~  
2-56 ~~the minor to cover]; or~~

2-57 (2) a person who [whom] the tattooist suspects is  
2-58 under the influence of alcohol or drugs.

2-59 (a-1) A tattooist may tattoo a person younger than 18 years  
2-60 of age if:

2-61 (1) the tattoo will cover a tattoo that contains:

2-62 (A) obscene or offensive language or symbols;

2-63 (B) gang-related names, symbols, or markings;

2-64 (C) drug-related names, symbols, or pictures; or

2-65 (D) other words, symbols, or markings that the

2-66 person's parent or guardian considers would be in the best interest  
2-67 of the person to cover; and

2-68 (2) the person has obtained consent from the person's  
2-69 parent or guardian to cover the tattoo.

3-1 (b) The consent required by Subsection (a-1) [~~(a)~~] may be  
3-2 satisfied by[+]

3-3 [~~(1) written and notarized consent by the individual's~~  
3-4 ~~parent or guardian, or~~

3-5 [~~(2)~~] the individual's parent or guardian:

3-6 (1) [~~(A)~~] being physically present at the tattoo  
3-7 studio at the time the tattooing is performed;

3-8 (2) [~~(B)~~] executing an affidavit stating that the  
3-9 person is the parent or guardian of the individual on whom the  
3-10 tattooing is to be performed;

3-11 (3) [~~(C)~~] presenting evidence of the person's identity  
3-12 to the person who will perform the tattooing; and

3-13 (4) [~~(D)~~] presenting evidence of the person's status  
3-14 as parent or guardian of the individual who will receive the tattoo.

3-15 (c) A person younger than 18 years of age commits an offense  
3-16 if the person falsely states that the person is 18 years of age or  
3-17 older or presents any document that indicates that the person is 18  
3-18 years of age or older to a person engaged in the operation of a  
3-19 tattoo studio. An offense under this subsection is a Class B  
3-20 misdemeanor [If a parent or guardian of the minor and the minor  
3-21 agree to the covering of a tattoo described by Subsection (a), a  
3-22 justice court may issue the order. If the parent or guardian and  
3-23 the minor do not agree, the order must be issued by a district court  
3-24 or other court with jurisdiction of a suit affecting the  
3-25 parent-child relationship or a civil proceeding brought under Title  
3-26 3 or 4, Family Code.

3-27 [~~(d) The consent required by Subsection (a) must indicate~~  
3-28 ~~the location on the person's body at which the tattoo may be~~  
3-29 ~~placed].~~

3-30 SECTION 6. Section 146.0125, Health and Safety Code, is  
3-31 amended by amending Subsection (c) and adding Subsection (d) to  
3-32 read as follows:

3-33 (c) The consent required by Subsections (a) and (b) may be  
3-34 satisfied by[+]

3-35 [~~(1) written and notarized consent by the individual's~~  
3-36 ~~parent or guardian, or~~

3-37 [~~(2)~~] the individual's parent or guardian:

3-38 (1) [~~(A)~~] being physically present at the body  
3-39 piercing studio at the time the body piercing is performed;

3-40 (2) [~~(B)~~] executing an affidavit stating that the  
3-41 person is the parent or guardian of the individual on whom the body  
3-42 piercing is to be performed;

3-43 (3) [~~(C)~~] presenting evidence of the person's identity  
3-44 to the person who will perform the body piercing; and

3-45 (4) [~~(D)~~] presenting evidence of the person's status  
3-46 as parent or guardian of the individual who will receive the body  
3-47 piercing.

3-48 (d) A person younger than 18 years of age commits an offense  
3-49 if the person falsely states that the person is 18 years of age or  
3-50 older presents any document that indicates that the person is 18  
3-51 years of age or older to a person engaged in the operation of a body  
3-52 piercing studio. An offense under this subsection is a Class B  
3-53 misdemeanor.

3-54 SECTION 7. Chapter 146, Health and Safety Code, is amended  
3-55 by adding Sections 146.021 through 146.025 to read as follows:

3-56 Sec. 146.021. EMERGENCY ORDERS. (a) The commissioner may,  
3-57 with or without notice or hearing, issue an emergency order  
3-58 relating to regulation under this chapter of a tattooist or body  
3-59 piercer, or to the operation of a tattoo studio or body piercing  
3-60 studio, if the commissioner finds:

3-61 (1) that:

3-62 (A) the operation of the tattoo studio or body  
3-63 piercing studio or the performance of tattooing or body piercing by  
3-64 the tattooist or body piercer presents an immediate and serious  
3-65 threat to human health; or

3-66 (B) a shooting, stabbing, or other violent act or  
3-67 an offense involving drugs:

3-68 (i) occurred at the tattoo studio or body  
3-69 piercing studio; or

4-1 (ii) involved the tattooist or body  
4-2 piercer; and

4-3 (2) that other procedures available to the department  
4-4 to remedy or prevent the threat will result in an unreasonable  
4-5 delay.

4-6 (b) If the commissioner issues an emergency order under this  
4-7 section without a hearing, the department shall set a hearing under  
4-8 Chapter 2001, Government Code, to affirm, modify, or set aside the  
4-9 emergency order.

4-10 (c) If the license or registration holder cannot be located  
4-11 for a notice required under this section, the department shall  
4-12 provide notice by posting a copy of the order on the front door of  
4-13 the premises of the license holder or the premises where the  
4-14 registration holder is employed.

4-15 Sec. 146.022. REGISTRATION REQUIRED FOR TATTOOISTS AND BODY  
4-16 PIERCERS. (a) A person may not perform tattooing or body piercing  
4-17 at a tattoo studio or a body piercing studio unless the person holds  
4-18 a registration issued by the department as a tattooist or body  
4-19 piercer under this section.

4-20 (b) The registration holder shall display the registration  
4-21 in a prominent place at each tattoo studio or body piercing studio  
4-22 or temporary location where the person is employed.

4-23 Sec. 146.023. REGISTRATION APPLICATION. To receive a  
4-24 tattooist or body piercer registration, the person must submit:

4-25 (1) a signed registration application to the  
4-26 department on a form prescribed by the department;

4-27 (2) the application fee; and

4-28 (3) proof of completion of a training course approved  
4-29 by the department for tattooists and body piercers that includes  
4-30 not less than six hours related to bloodborne pathogens, infection  
4-31 control, and aseptic technique.

4-32 Sec. 146.024. REGISTRATION TERM; RENEWAL. (a) A tattooist  
4-33 or body piercer registration is valid for one year from the date of  
4-34 issuance.

4-35 (b) A tattooist or body piercer registration may be renewed  
4-36 annually on:

4-37 (1) payment of the required renewal fee; and

4-38 (2) submission of proof of completion of a training  
4-39 course approved by the department that includes not less than four  
4-40 hours related to bloodborne pathogens, infection control, and  
4-41 aseptic technique.

4-42 Sec. 146.025. COURSE OF INSTRUCTION FOR TATTOOISTS AND BODY  
4-43 PIERCERS; RULES; FEES. (a) The department shall prepare or  
4-44 approve a course of instruction sufficient to meet the requirements  
4-45 for application for a registration under Section 146.023 or renewal  
4-46 of a registration under Section 146.024.

4-47 (b) The department may approve a course of instruction based  
4-48 on standards set by the department to reasonably ensure that a  
4-49 tattooist or body piercer develops the job skills and knowledge  
4-50 necessary to protect public health and safety.

4-51 (c) A prospective course provider must submit to the  
4-52 department for approval the course length and curriculum content  
4-53 for each course offered by the provider. The provider may implement  
4-54 a course length and curriculum content only after department  
4-55 approval.

4-56 (d) The department by rule shall set a fee in an amount  
4-57 reasonable and necessary to cover the cost of reviewing the course  
4-58 content and issuing the approval.

4-59 SECTION 8. (a) The changes in law made by this Act to  
4-60 Sections 146.012 and 146.0125, Health and Safety Code, apply only  
4-61 to an offense committed on or after the effective date of this Act.  
4-62 For purposes of this section, an offense is committed before the  
4-63 effective date of this Act if any element of the offense occurs  
4-64 before the effective date.

4-65 (b) An offense committed before the effective date of this  
4-66 Act is governed by the law in effect when the offense was committed,  
4-67 and the former law is continued in effect for that purpose.

4-68 SECTION 9. A tattooist or body piercer is not required to  
4-69 hold a registration issued under Chapter 146, Health and Safety

5-1 Code, as amended by this Act, before June 1, 2004.  
5-2 SECTION 10. This Act takes effect September 1, 2003.

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