

BILL ANALYSIS

Senate Research Center
76R12082 CMR-D

C.S.S.B. 932
By: Madla
Health Services
4/14/1999
Committee Report (Substituted)

DIGEST

Currently, Texas law provides for the Tattoo Act which requires the Texas Department of Health to license and regulate all tattoo studios in Texas in order to protect public health and safety. C.S.S.B. 932 would add further regulation of tattoo studios and provide additional penalties.

PURPOSE

As proposed, C.S.S.B. 932 regulates tattoo studios and provides penalties.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 146.003(a) and (b), Health and Safety Code, to authorize a person to submit evidence from the appropriate zoning officials in the municipality or county in which the studio is tattoo studio is proposed to be located that confirms that the studio is in compliance with existing zoning codes applicable to the studio. Authorize the Texas Department of Health (department) to issue a license or temporary location license for a tattoo studio after determining that the studio is in compliance with applicable statutes and rules. Deletes text regarding license application and zoning codes.

SECTION 2. Amends Section 146.007, Health and Safety Code, to require certain persons in the tattooing business to comply with this chapter, Chapter 431, and rules adopted under this chapter. Authorizes the Texas Board of Health (board), commissioner of health (commissioner), and department to enforce Chapter 431 in relation to a drug, cosmetic, or device that is used in tattooing and that is not otherwise subjected to that chapter as if the drug, cosmetic, or device satisfied the definitions assigned those terms under Section 431.002.

SECTION 3. Amends Section 146.011(c), Health and Safety Code, to require tools and equipment to be sterilized by the use of a dry heat sterilizer, rather heating in an oven at 320 degrees Fahrenheit for at least an hour.

SECTION 4. Amends Section 146.017(b), Health and Safety Code, to authorize a person to appeal a final decision of the department as provided by that chapter, rather than the Administrative Procedure and Texas Register Act.

SECTION 5. Amends Section 146.018(b), Health and Safety Code, to provide that an offense under this section is a Class A, rather than C, misdemeanor.

SECTION 6. Amends Section 146.019, Health and Safety Code, by adding Subsection (s), to authorize any duty of the commissioner under this section to be delegated to employees of the commission.

SECTION 7. Amends Chapter 146, Health and Safety Code, by adding Section 146.020, as follows:

Sec. 146.020. CIVIL PENALTY; INJUNCTION. Authorizes the commissioner to request the attorney general or other authorities in the jurisdiction where the violation is alleged to have occurred, is occurring, or may occur to institute a civil suit for certain action, if it appears that a person has violated, or is violating this chapter or an order issued or a rule adopted under this chapter. Prohibits a civil penalty from exceeding \$5,000 a day for each violation. Provides that each day the violation occurs constitutes a separate violation for the purposes of the assessment

of a civil penalty. Requires the court hearing the matter to consider certain items in determining the amount of the civil penalty. Provides that venue for a suit brought under this section is in the county in which the violation occurred or in Travis County. Require a civil penalty recovered in a suit instituted by a local government under this chapter to be paid to the local government. Authorizes the commissioner or the attorney general to recover expenses incurred in obtaining injunctive relief or a civil penalty under this section, including investigation and court costs, reasonable attorney's fees, and other expenses. Authorizes the expenses recovered by the commissioner to be used for the administration and enforcement of this chapter. Authorizes the expenses recovered by the attorney general for any purpose.

SECTION 8. Repealers: (1) Section 146.003(c), Health and Safety Code (regarding temporary location license application).

(2) Section 146.009, Health and Safety Code (Building and Location).

SECTION 9. Effective date: September 1, 1999.

SECTION 10. Makes application of Section 146.018, Health and Safety Code, as added by this Act prospective.

SECTION 11. Makes application of Section 146.020, Health and Safety Code, as added by this Act prospective.

SECTION 12. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 146.003(a), Health and Safety Code, to authorize a person to submit evidence from the appropriate zoning officials in the municipality or county in which the studio is tattoo studio is proposed to be located that confirms that the studio is in compliance with existing zoning codes applicable to the studio.

SECTION 6.

Amends Section 146.019, Health and Safety Code, to authorize any duty of the commissioner under this section to be delegated to employees of the commission. Deletes text regarding certain duties of the commissioner and department.

SECTION 7.

Amends Section 146.020, Health and Safety Code, to delete text regarding a person threatening to violate this chapter, and authorizing the commission or attorney general to each recover certain expenses.

SECTION 8.

Deletes repeal of Section 146.016(c), Health and Safety Code (regarding persons who own, operate or maintain a tattoo studio).

SECTION 11.

Deletes prospective clause.