

HEALTH & SAFETY CODE

CHAPTER 146. TATTOO AND CERTAIN BODY PIERCING STUDIOS

Sec. 146.001. DEFINITIONS. In this chapter:

(1) "Body piercing" means the creation of an opening in an individual's body, other than in an individual's earlobe, to insert jewelry or another decoration.

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

(2) "Body piercing studio" means a facility in which body piercing is performed.

(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.

(4) "Tattooist" means a person who performs tattooing.

(5) "Tattoo studio" means an establishment or facility in which tattooing is performed.

(6) "Temporary location" means a fixed location at which an individual operator performs tattooing or body piercing for a specified period of not more than seven days in conjunction with a single event or celebration, where the primary function of the event or celebration is tattooing or body piercing.

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 936, Sec. 2, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 516, Sec. 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1226, Sec. 1, eff. Sept. 1, 2003.

Sec. 146.002. LICENSE REQUIRED. (a) A person may not conduct, operate, or maintain a tattoo studio unless the person holds a license issued by the department to operate the tattoo studio. Except as provided by Section 146.0025, a person may not conduct, operate, or maintain a body piercing studio unless the person holds a license issued by the department to operate the body piercing studio.

(b) Except as provided by Section 146.0025, a person may not practice tattooing or body piercing at a temporary location unless the person holds a temporary location license for tattooing or body piercing, as appropriate, issued by the department.

(c) The license must be displayed in a prominent place in the tattoo or body piercing studio or temporary location.

(d) Tattooing and body piercing are permitted only at a location that is in compliance with this chapter and rules adopted under this chapter.

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 936, Sec. 3, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 516, Sec. 3, eff. Sept. 1, 1999.

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.

Added by Acts 2003, 78th Leg., ch. 1226, Sec. 2, eff. Sept. 1, 2003.

Sec. 146.0025. EXEMPTIONS FROM LICENSING REQUIREMENTS; EAR PIERCING ESTABLISHMENTS EXEMPT. (a) This chapter does not apply to:

(1) a medical facility licensed under other law;

(2) an office or clinic of a person licensed by the Texas State Board of Medical Examiners;

(3) a person who performs only ear piercing; or

(4) a facility in which only ear piercing is performed.

(b) A person who conducts, operates, or maintains a facility, office, or clinic described by Subsection (a)(1), (2), or (4) is not required to obtain a license under this chapter to operate that facility.

Added by Acts 1999, 76th Leg., ch. 516, Sec. 3, eff. Sept. 1, 1999.

Sec. 146.003. LICENSE APPLICATION. (a) To receive a tattoo studio license, body piercing studio license, or temporary location license, a person must submit a signed, verified license application to the department on a form prescribed by the department and must submit an application fee. In addition, the person must submit evidence from the appropriate zoning officials in the municipality or county in which the studio is proposed to be located that confirms that the studio is in compliance with existing zoning codes applicable to the studio.

Text of subsec. (b) as added by Acts 1999, 76th Leg., ch. 516, Sec. 4

(b) On receipt of a tattoo studio or body piercing studio license application, the department shall inspect the proposed tattoo or body piercing studio to determine compliance with this chapter and rules adopted by the board under this chapter. In addition, the department shall request confirmation from the appropriate building and zoning officials in the municipality or county in which the studio is proposed to be located to determine compliance with existing building and zoning codes applicable to the studio. The department may issue a license for a tattoo or body piercing studio after determining that the studio is in compliance with applicable statutes, rules, and building and zoning codes. Text of subsec. (b) as added by Acts 1999, 76th Leg., ch. 1528, Sec.

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(b) The department may issue a license or temporary location license for a tattoo studio after determining that the studio is in compliance with applicable statutes, rules, and zoning codes.

(c) Repealed by Acts 1999, 76th Leg., ch. 1528, Sec. 9(1), eff. September 1, 1999.

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 936, Sec. 4, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 516, Sec. 4, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1528, Sec. 1, 9(1), eff. Sept. 1, 1999.

Sec. 146.004. LICENSE TERM; RENEWAL. (a) A tattoo studio or body piercing studio license is valid for one year from the date of issuance. A temporary tattooing or body piercing location license is valid for a specified period not to exceed seven days.

(b) A tattoo studio or body piercing studio license may be renewed annually on payment of the required renewal fee.

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 936, Sec. 5, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 516, Sec. 5, eff. Sept. 1, 1999.

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

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

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

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

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

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

(6) the applicant is a minor; or

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

(b) The department may 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.

Added by Acts 2003, 78th Leg., ch. 1226, Sec. 3, eff. Sept. 1, 2003.

Sec. 146.0042. REVOCATION OR SUSPENSION OF LICENSE. (a) In Subsection (b), "license holder" 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) The department may 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 any of the following is true:

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

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

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

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

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

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

(c) The department may 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 the department 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, 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, Tax Code.

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

Added by Acts 2003, 78th Leg., ch. 1226, Sec. 3, eff. Sept. 1, 2003.

Sec. 146.005. FEES. (a) The board shall set license and registration fees and license and registration renewal fees in amounts necessary to administer this chapter.

(b) Fees collected under this section may only be appropriated to the department to administer and enforce this chapter.

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 1226, Sec. 4, eff. Sept. 1, 2003.

Sec. 146.006. CHANGE OF LOCATION. (a) A person holding a tattoo studio or body piercing studio license under this chapter who intends to change the location of the tattoo or body piercing studio shall notify the department in writing of that intent not less than 30 days before the change is to occur. The notice shall include the street address of the new location and the name and residence address of the individual in charge of the business at the new location.

(b) Not later than the 10th day after the change of location is complete, a person holding a license under this chapter shall notify the department in writing and shall verify the information submitted under Subsection (a).

(c) Notice under this section must be sent to the department's central office by certified mail, return receipt requested.

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 936, Sec. 6, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 516, Sec. 6, eff. Sept. 1, 1999.

Sec. 146.007. COMPLIANCE WITH CHAPTER AND RULES. (a) A person who owns, operates, or maintains a tattoo or body piercing studio or practices tattooing or body piercing at a temporary location shall comply with this chapter, Chapter 431, and rules adopted under this chapter and Chapter 431.

(b) The board, commissioner, and department may enforce Chapter 431 in relation to a drug, cosmetic, or device that is used in tattooing and that is not otherwise subject to that chapter as if the drug, cosmetic, or device satisfied the definitions assigned those terms under Section 431.002.

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 936, Sec. 7, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 516, Sec. 7, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1528, Sec. 2, eff. Sept. 1, 1999.

Sec. 146.008. ASEPTIC TECHNIQUES. A person who owns, operates, or maintains a tattoo or body piercing studio and each tattooist or person who performs body piercing who works in the studio or at a temporary location shall take precautions to prevent the spread of infection, including:

(1) using germicidal soap to clean the hands of the tattooist or person who performs body piercing and the skin area of

the client to be tattooed or pierced;

(2) wearing clean apparel and rubber gloves;

(3) using sterile tools and equipment as provided by Section 146.011; and

(4) keeping the tattoo or body piercing studio or temporary location in a sanitary condition.

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 936, Sec. 8, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 516, Sec. 8, eff. Sept. 1, 1999.

Sec. 146.009. BUILDING AND LOCATION. A tattoo or body piercing studio must be in a permanent, nondwelling building located in an area in which the location is permissible under local zoning codes, if any.

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 936, Sec. 9, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 516, Sec. 9, eff. Sept. 1, 1999.

Repeal

Without reference to the amendment of this section by Acts 1999, 76th Leg., ch. 516, Sec. 9, Acts 1999, 76th Leg., ch. 1528, Sec. 9(2) repeals this section effective September 1, 1999.

Sec. 146.010. SANITATION REQUIREMENTS. (a) The board by rule shall establish sanitation requirements for tattoo and body piercing studios and any other necessary requirements relating to the building or part of the building in which a tattoo or body piercing studio is located.

(b) A person who owns, operates, or maintains a tattoo or body piercing studio shall comply with the rules adopted under this section.

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 936, Sec. 10, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 516, Sec. 10, eff. Sept. 1, 1999.

Sec. 146.011. TOOLS AND EQUIPMENT. (a) A tattooist or person who performs body piercing shall use tools and equipment for tattooing or body piercing that have been properly sterilized and kept in a sterile condition.

(b) A tattooist or person who performs body piercing shall sterilize tools and equipment used on one client before using them on another client.

(c) Tools and equipment shall be sterilized by:

(1) the use of a dry heat sterilizer; or

(2) steam pressure treatment in an autoclave.

(d) All needles and instruments shall be kept in a clean, dust-tight container when not in use.

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 516, Sec. 11, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1528, Sec. 3, eff. Sept. 1, 1999.

Sec. 146.012. TATTOOS PROHIBITED FOR CERTAIN PERSONS. (a) A tattooist may not tattoo:

(1) except as provided by Subsection (a-1), a person younger than 18 years of age; or

(2) a person who the tattooist suspects is under the influence of alcohol or drugs.

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

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

(A) obscene or offensive language or symbols;

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

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

(D) other words, symbols, or markings that the person's parent or guardian considers would be in the best interest of the person to cover; and

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

(b) The consent required by Subsection (a-1) may be satisfied by the individual's parent or guardian:

(1) being physically present at the tattoo studio at the time the tattooing is performed;

(2) executing an affidavit stating that the person is the parent or guardian of the individual on whom the tattooing is to be performed;

(3) presenting evidence of the person's identity to the person who will perform the tattooing; and

(4) presenting evidence of the person's status as parent or guardian of the individual who will receive the tattoo.

(c) 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. An offense under this subsection is a Class B misdemeanor

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 936, Sec. 11, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1528, Sec. 4, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1226, Sec. 5, eff. Sept. 1, 2003.

Sec. 146.0124. BODY PIERCING PROHIBITED FOR CERTAIN PERSONS. A person may not perform body piercing if the person suspects that the individual on whom the body piercing is to be performed is under the influence of alcohol or drugs.

Added by Acts 1999, 76th Leg., ch. 516, Sec. 12, eff. Sept. 1, 1999.

Sec. 146.0125. BODY PIERCING PROHIBITED WITHOUT PARENTAL CONSENT; EXCEPTION. (a) A person may not perform body piercing on an individual younger than 18 years of age without the consent of a parent, managing conservator, or guardian of the individual.

(b) The consent must indicate the part of the person's body that may be pierced.

(c) The consent required by Subsections (a) and (b) may be satisfied by the individual's parent or guardian:

(1) being physically present at the body piercing studio at the time the body piercing is performed;

(2) executing an affidavit stating that the person is the parent or guardian of the individual on whom the body piercing is to be performed;

(3) presenting evidence of the person's identity to the person who will perform the body piercing; and

(4) presenting evidence of the person's status as parent or guardian of the individual who will receive the body piercing.

(d) 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 body piercing studio. An offense under this subsection is a Class B misdemeanor.

Added by Acts 1999, 76th Leg., ch. 516, Sec. 12, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1226, Sec. 6, eff. Sept. 1, 2003.

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

(b) A person may not perform tongue splitting.

Added by Acts 2003, 78th Leg., ch. 1226, Sec. 7, eff. Sept. 1, 2003.

Sec. 146.013. MAINTENANCE OF RECORDS. (a) A tattooist shall maintain a permanent record of each person tattooed by the tattooist for a period established by the board. A person who performs body piercing shall maintain a permanent record of each individual whose body is pierced by the person for a period established by the board.

(b) The record shall be available for inspection on the request of the department.

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 516, Sec. 13, eff. Sept. 1, 1999.

Sec. 146.014. REPORT OF INFECTION. A person who owns, operates, or maintains a tattoo or body piercing studio shall report to the department any infection resulting from tattooing or body piercing as soon as it becomes known.

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 936, Sec. 12, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 516, Sec. 14, eff. Sept. 1, 1999.

Sec. 146.015. RULES; ENFORCEMENT. (a) The board shall adopt rules to implement this chapter.

(b) The department shall enforce this chapter and the rules adopted under this chapter and may issue orders to compel compliance.

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Sept. 1, 1993.

Sec. 146.016. INSPECTIONS. (a) The department shall inspect a tattoo or body piercing studio to determine if the studio complies with this chapter and the rules adopted under this chapter.

(b) A person who owns, operates, or maintains a tattoo or body piercing studio shall allow inspection of the studio by the

department at any time the studio is in operation.

(c) The department shall inform the person who owns, operates, or maintains a tattoo or body piercing studio of any violation discovered by the department under this section and shall give the person a reasonable period in which to take necessary corrective action.

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 936, Sec. 13, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 516, Sec. 15, eff. Sept. 1, 1999.

Sec. 146.017. LICENSE DENIAL, SUSPENSION, OR REVOCATION. (a) The department may refuse to issue a license or suspend or revoke a license issued under this chapter if an applicant or license holder does not comply with this chapter or a rule adopted or order issued under this chapter.

(b) The refusal to issue a license, the suspension or revocation of a license, and any appeals are governed by the board's formal hearing procedures and the procedures for a contested case hearing under Chapter 2001, Government Code. A person may appeal a final decision of the department as provided by that chapter.

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1528, Sec. 5, eff. Sept. 1, 1999.

Sec. 146.018. OFFENSE; CRIMINAL PENALTY. (a) A person commits an offense if the person violates this chapter or a rule adopted under this chapter.

(b) An offense under this section is a Class A misdemeanor.

(c) Each day of violation constitutes a separate offense.

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Jan. 1, 1994. Amended by Acts 1999, 76th Leg., ch. 1528, Sec. 6, eff. Sept. 1, 1999.

Sec. 146.019. ADMINISTRATIVE PENALTY. (a) The commissioner may impose an administrative penalty against a person who violates a rule adopted under Section 146.007 or an order adopted or license issued under this chapter.

(b) The penalty for a violation may be in an amount not to exceed \$5,000. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(c) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amounts necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(d) The commissioner who determines that a violation has occurred shall issue an order that states the facts on which the determination is based, including an assessment of the penalty.

(e) Within 14 days after the date the report is issued, the commissioner shall give written notice of the report to the person. The notice may be given by certified mail. The notice must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and must inform the person that the person has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(f) Within 20 days after the date the person receives the notice, the person in writing may accept the determination and recommended penalty of the commissioner or may make written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) If the person accepts the determination and recommended penalty of the commissioner, the commissioner by order shall approve the determination and impose the recommended penalty.

(h) If the person requests a hearing or fails to respond timely to the notice, the commissioner shall set a hearing and give notice of the hearing to the person. The hearing shall be held by an administrative law judge of the State Office of Administrative Hearings. The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commissioner a proposal for a decision about the occurrence of the violation and

the amount of a proposed penalty. Based on the findings of fact, conclusions of law, and proposal for a decision, the commissioner by order may find that a violation has occurred and impose a penalty or may find that no violation occurred.

(i) The notice of the commissioner's order given to the person under Chapter 2001, Government Code must include a statement of the right of the person to judicial review of the order.

(j) Within 30 days after the date the commissioner's order is final as provided by Subchapter F, Chapter 2001, Government Code, the person shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(k) Within the 30-day period, a person who acts under Subsection (j)(3) of this section may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond approved by the court for the amount of the penalty and that is effective until all judicial review of the commissioner's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the commissioner by certified mail.

(1) The commissioner who receives a copy of an affidavit under Subsection (k)(2) of this section may file, with the court within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(m) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the commissioner may refer the matter to the attorney general for collection of the amount of the penalty.

(n) Judicial review of the order of the commissioner:

(1) is instituted by filing a petition as provided by Subchapter G, Chapter 2001, Government Code and its subsequent amendments; and

(2) is under the substantial evidence rule.

(o) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. If the court does not sustain the occurrence of the violation, the court shall order that no penalty is owed.

(p) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount of the penalty and if that amount is reduced or is not upheld by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person gave a supersedeas bond and if the amount of the penalty is not upheld by the court, the court shall order the release of the bond. If the person gave a supersedeas bond and if the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the amount.

(q) A penalty collected under this section shall be remitted to the comptroller for deposit in the general revenue fund.

(r) All proceedings under this section are subject to Chapter 2001, Government Code.

(s) Any duty of the commissioner under this section may be delegated to employees of the department.

Added by Acts 1993, 73rd Leg., ch. 580, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(51), (55), (59), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1528, Sec. 7, eff. Sept. 1, 1999.

Sec. 146.020. CIVIL PENALTY; INJUNCTION. (a) If it appears that a person has violated or is violating this chapter or an order issued or a rule adopted under this chapter, the commissioner may request the attorney general or the district attorney, county attorney, or municipal attorney in the jurisdiction where the violation is alleged to have occurred, is occurring, or may occur to institute a civil suit for:

(1) an order enjoining the violation;

(2) a permanent or temporary injunction, a temporary restraining order, or other appropriate remedy, if the department shows that the person has engaged in or is engaging in a violation;

(3) the assessment and recovery of a civil penalty; or

(4) both injunctive relief and a civil penalty.

(b) A civil penalty may not exceed \$5,000 a day for each violation. Each day the violation occurs constitutes a separate violation for the purposes of the assessment of a civil penalty.

(c) In determining the amount of the civil penalty, the court hearing the matter shall consider:

(1) the person's history of previous violations;

(2) the seriousness of the violation;

(3) the hazard to the health and safety of the public;

(4) the demonstrated good faith of the person charged;

and

(5) any other matter as justice may require.

(d) Venue for a suit brought under this section is in the county in which the violation occurred or in Travis County.

(e) A civil penalty recovered in a suit instituted by a local government under this chapter shall be paid to the local government.

(f) The commissioner or the attorney general may recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty under this section, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses. The expenses recovered by the commissioner under this section may be used for the administration and enforcement of this chapter. The expenses recovered by the attorney general may be used by the attorney general for any purpose.

Added by Acts 1999, 76th Leg., ch. 1528, Sec. 8, eff. Sept. 1, 1999.

Sec. 146.021. EMERGENCY ORDERS. (a) The commissioner may, with or without notice or hearing, 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:

(1) that:

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

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

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

(ii) involved the tattooist or body piercer; and

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

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

(c) If the license or registration holder cannot be located for a notice required under this section, the department shall 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.

Added by Acts 2003, 78th Leg., ch. 1226, Sec. 8, eff. Sept. 1, 2003.

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

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

Added by Acts 2003, 78th Leg., ch. 1226, Sec. 8, eff. Sept. 1, 2003.

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

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

(2) the application fee; and

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

Added by Acts 2003, 78th Leg., ch. 1226, Sec. 8, eff. Sept. 1, 2003.

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

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

(1) payment of the required renewal fee; and

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

Added by Acts 2003, 78th Leg., ch. 1226, Sec. 8, eff. Sept. 1, 2003.

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

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

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

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

Added by Acts 2003, 78th Leg., ch. 1226, Sec. 8, eff. Sept. 1, 2003.