

SUBJECT: Body piercing regulation and parental consent

COMMITTEE: Public Health — favorable, with amendment

VOTE: 8 ayes — Gray, Coleman, Delisi, Glaze, Hilderbran, Maxey, McClendon, Uresti

0 nays

1 present, not voting — Capelo

SENATE VOTE: On final passage, March 1 — voice vote

WITNESSES: For — Paula Leis, M.D., Texas Dermatological Society and Texas Medical Association; Timothy Newman, Miss Fortune Tattoo Parlor; Geneva Ledlow; Kim LeGros

Against — None

BACKGROUND: Chapter 145 of the Health and Safety Code regulates tattoo studios. Tattooists must be licensed by the Texas Department of Health (TDH), but the licensing requirement does not apply to a medical facility or an office or clinic of a licensed physician. TDH may issue a temporary license for up to seven days for certain temporary locations. Licensees are required to use germicidal soap to wash their hands and the area to be tattooed, wear clear apparel and rubber gloves, use sterile tools and equipment, and keep their location in a sanitary condition. Tools and equipment must be sterilized between uses by dry heating in an oven at 320 degrees Fahrenheit for at least one hour or by steam pressure treatment in an autoclave. TDH inspects tattoo studios and has enforcement authority, including imposing administrative penalties of not more than \$5,000 per day. Violation of the chapter is a Class C misdemeanor offense, punishable by a maximum fine of \$500.

Licensees may not tattoo persons younger than 18 without written, notarized consent from a parent or guardian or any persons under the influence of alcohol or drugs.

DIGEST: SB 61, as amended SB 61 would include body piercing studios under the TDH licensing and regulation requirements for tattoo studios. SB 61 would require body piercing studios to comply with licensing and location requirements, aseptic techniques, sanitation requirements, infection reporting requirements, and TDH inspections that tattoo studios are required to follow.

Body piercing would be defined as creating an opening on an individual's body to insert jewelry or other decoration, but would not include piercing the external part of the ear.

SB 61 would prohibit a person from providing body piercing to a minor under the age of 18 without the written, notarized consent of a parent, managing conservator, or guardian specifying the body part to be pierced.

TDH would have to adopt rules by January 1, 2000, to implement the bill's provisions. SB 61 would take effect September 1, 1999, and would apply to body piercing studios on or after June 1, 2000.

SUPPORTERS SAY: SB 61 would establish basic sanitation, licensing requirements, and inspections for body piercing studios. In 1998, TDH received 69 complaints regarding unsanitary conditions, inappropriate touching, and injuries in body piercing studios. The piercing of body parts for cosmetic purposes is a rising trend. Body areas that are most frequently pierced are the nose, lip, eyebrow, navel, nipple, genital, and tongue. This industry should not be allowed to continue to operate without being regulated for the safety of the public, and especially for the protection of the many young customers who seek out this form of cosmetic decoration.

Preventable diseases, including HIV, Hepatitis B and C, and tetanus, can be passed to body piercing customers through unsterile equipment used to puncture the skin. Many of these risks can be eliminated with proper use of an autoclave to sterilize instruments. This bill would ensure that equipment and premises were kept sanitary and that TDH could make inspections.

According to TDH, Texas has 500 body piercing studios, but 400 of those also are tattoo parlors that already must comply with current licensing and sanitation requirements. Most body piercing studios already meet or exceed the standards

that would be set by this bill. The industry supports minimum standards for all body piercing studios so that “hack shops” cannot continue to operate.

SB 61 would protect teenagers by requiring minors to get written, notarized permission from a parent before undergoing this procedure. This requirement would make sure that the parent is involved in the minor’s decision and has granted permission. The requirement that consent be written and notarized would prevent a signature or identity forgery. By requiring parental consent for body piercing, the state would reinforce the principle of parental rights when a minor has an invasive procedure.

Ear piercing is a less invasive procedure that does not justify the licensing and regulation that tattoo and body piercing studios require.

This bill would have a positive fiscal impact of approximately \$22,000, generating more fees than would be expended, to be deposited into general revenue.

OPPONENTS
SAY:

SB 61 could drive minors who want body piercing to do it for themselves, very likely in an unsanitary and unsafe way. Anyone who is not trained could be hurt or even maimed by trying it on themselves. Tongue piercing, done improperly, could cause a speech impediment or nerve damage. This law, intended to protect youngsters, has the potential actually to drive them to harm themselves.

This bill would not give parents any more authority over teenagers. It just takes personal responsibility away from minors and their decisions about their own bodies. It would not prevent youngsters from obtaining fake IDs and getting around the requirements in other ways. Unlike tattoos, body piercing can be reversed simply by removing the metal or jewelry involved.

This bill would inconvenience some families. A parent wanting to allow a child to undergo body piercing could grant consent only if the consent were notarized. It would be more logical to require that a minor be accompanied by a parent when asking for this service.

Body piercing is a fad and will pass. However, making it illegal for minors without permission only would make it more attractive. Legislation should not be passed simply because some parents and lawmakers think a trend is

unacceptable. It would be better to educate minors about making responsible choices than ask the state to get involved in regulating a private industry.

NOTES: The committee amendments would expand the exemption for earlobe piercing to include piercing the external part of the ear.