

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 1039
Economic Matters

(Delegate Bronrott, *et al.*)

Tanning Devices - Use by Minors - Prohibition

This bill – by repealing the ability of a minor to obtain parental consent – prohibits a minor from using a tanning device and prohibits the owner, employee, or operator of a tanning facility from distributing to a minor a pass, coupon, or package redeemable for use of a tanning device. Violators are subject to civil penalties. Fines for violations are up to \$250 for the first violation; up to \$500 for the second violation; and up to \$1,000 for each subsequent violation. The bill does not preempt a county or municipal government from enacting and enforcing more stringent measures to regulate the sanitary operation of tanning facilities.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to the bill's penalty provisions assuming imposition and collection by the Secretary of Health and Mental Hygiene. No effect on expenditures.

Local Effect: Minimal. The bill's provisions supersede local regulations; therefore, a county that has adopted tanning regulations that are not equivalent to those of the State will be required to amend its regulations. Expenditures and revenues may increase in jurisdictions that choose to adopt sanitation regulations for tanning facilities.

Small Business Effect: Potentially meaningful for small tanning businesses that derive business from customers who are minors.

Analysis

Current Law: Chapter 691 of 2008 prohibits an owner, employee, or operator of a tanning facility from allowing a minor younger than age 18 to use a tanning device unless the minor's parent or legal guardian provides written consent on the premises of the tanning facility and in the presence of an owner, employee, or operator of the tanning facility. Violators are subject to civil penalties. Fines for violations are up to \$250 for the first violation; up to \$500 for the second violation; and up to \$1,000 for each subsequent violation. Chapter 691 does not preempt local governments from enacting and enforcing more stringent measures regulating the use of tanning devices by minors.

The Radiological Health Program within the Maryland Department of the Environment is required to control the uses of radiation and to protect the public health and safety and the environment from inadvertent and unnecessary radiation exposure. This is accomplished through registration of radiation machines, licensing of radioactive materials, inspections, and enforcement actions to ensure regulatory compliance.

At the federal level, the U.S. Food and Drug Administration enforces regulations relating to labels on tanning devices. The labels are intended to inform consumers of the appropriate use and potential dangers of tanning equipment.

Background: According to the U.S. Environmental Protection Agency, most tanning equipment emits two types of ultraviolet (UV) radiation: UVA and UVB. UVB has long been associated with sunburn, while UVA has been recognized as a deeper penetrating radiation. Tanning equipment mainly produces UVA radiation, sometimes known as "tanning rays." While UVA radiation from artificial tanning equipment is less likely to cause sunburn than UVB radiation from sunlight, that does not make UVA radiation safe.

In July 2009, the World Health Organization (WHO) reclassified tanning beds and UV radiation as carcinogenic. Until this reclassification, tanning beds and UV radiation were considered "probably carcinogenic to humans." WHO reclassified tanning beds and UV radiation after a comprehensive analysis that concluded that the risk of skin melanoma is increased by 75% when people start using tanning beds prior to age 35. WHO recommends banning tanning bed use for people younger than age 18.

California prohibits minors younger than age 14 from using an ultraviolet tanning device. Connecticut law requires minors younger than age 16 to obtain written consent of a parent or guardian in order to use a tanning facility, and Florida law requires a parent or guardian to accompany a minor younger than age 14 when using a tanning device.

In November 2009, Howard County became the first local jurisdiction in the United States to prohibit those younger than age 18 from using tanning devices without a written

prescription from the minor's physician. In addition, Howard County Board of Health regulations require tanning facility personnel to check photo identification to ensure the customer is not a minor. The Howard County Board of Health also established more stringent sanitation and hygiene practices for tanning facilities and required an owner of a tanning facility to register with the board and pay a registration fee that must be renewed annually.

When the Howard County Board of Health held a public hearing regarding the tanning prohibition for minors, the majority of tanning facility owners testified that minors represented less than 3% of their business. However, some tanning salon owners reported that 20% to 25% of their customers are teenagers.

DHMH advises current law does not address the sanitary operations of tanning facilities. Howard County is the only jurisdiction that has adopted such sanitation regulations. Regulations require a facility to sanitize each tanning device and any protective eyewear the facility provides to a customer after one use with a sanitizer recommended by the device manufacturer. A facility must also provide sufficient lighting, clean bathroom facilities, and clean linens (if provided to a customer).

Local Fiscal Effect: According to DHMH, Howard County is the only jurisdiction with tanning regulations that will need to be amended under the bill since Howard County allows minors with a medical prescription to use tanning devices.

Additional Information

Prior Introductions: None.

Cross File: Although SB 718 (Senators Robey and Raskin – Finance) is designated as a cross file, it is not identical.

Information Source(s): World Health Organization; Baltimore, Garrett, Howard, and Montgomery counties; Department of Health and Mental Hygiene; Department of Legislative Services

Fiscal Note History: First Reader - March 22, 2010
ncs/mwc

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