

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 213
Finance

(Senator Raskin, *et al.*)

Tanning Devices - Use by Minors - Prohibition

This bill – by repealing the ability of a minor to obtain parental consent – prohibits an owner, employee, or operator of a tanning facility from allowing a minor to use a tanning device. Violators are subject to existing civil penalties: up to \$250 for the first violation; up to \$500 for the second violation; and up to \$1,000 for each subsequent violation.

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. The Department of Health and Mental Hygiene (DHMH) advises that it can use existing budgeted resources to amend its regulations, revise complaint forms, and train local health department (LHD) staff on changes in enforcement.

Local Effect: Enforcement can be handled with existing resources, assuming enforcement continues to be complaint-based. No effect on revenues.

Small Business Effect: Meaningful decrease in revenues for small tanning businesses that derive significant business from customers who are minors.

Analysis

Current Law/Background: 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 to regulate the use of tanning devices by minors. DHMH advises that enforcement, which is conducted by LHDs, is complaint-based.

The Radiological Health Program within the Maryland Department of the Environment is required to control the use of radiation and to protect public health and the environment from inadvertent and unnecessary radiation exposure. The program ensures regulatory compliance through registration of radiation machines, licensing of radioactive materials, inspections, and enforcement actions. At the federal level, the U.S. Food and Drug Administration enforces regulations relating to tanning device labels intended to inform consumers of the appropriate use and potential dangers of tanning equipment.

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

In July 2009, the World Health Organization (WHO) reclassified tanning beds and UV radiation as carcinogenic. Previously, 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 increases by 75% when individuals begin using tanning beds prior to age 35. WHO recommends a prohibition on tanning bed use for individuals younger than age 18.

California prohibits the use of a tanning device by those younger than age 18. Texas prohibits minors younger than age 16 and a half from using a tanning device, while Wisconsin prohibits the use of a tanning device by those younger than age 16. Minors younger than age 14 are prohibited from using tanning devices in Delaware, Illinois, Maine, New Hampshire, New Jersey, New York, and North Dakota, while North Carolina prohibits the use of a tanning device by those younger than age 13. However, Delaware, New Hampshire, North Carolina, and North Dakota have all established exceptions for medical necessity.

In November 2009, Howard County became the first local jurisdiction in the United States to prohibit individuals younger than age 18 from using tanning devices without a written prescription from a physician. The Howard County Board of Health has also adopted regulations requiring tanning facility personnel to check photo identification to ensure that a customer is not a minor.

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

Local Fiscal Effect: Enforcement can be handled with existing resources, assuming enforcement continues to be complaint-based. The Maryland Association of County Health Officers advises that no complaints have been received (and, therefore, no penalties have been assessed) by LHDs as a result of current restrictions related to the use of tanning devices by minors. Accordingly, the Department of Legislative Services assumes that complaints, if any, will be minimal under this bill.

Howard County must amend its regulations under the bill since Howard County currently allows minors with a medical prescription to use tanning devices, and the bill makes no such exception. However, this requirement can be handled with existing resources.

Additional Information

Prior Introductions: SB 604 of 2011 was heard by the Senate Finance Committee but received no further action. Its cross file, HB 1111, received an unfavorable report from the House Economic Matters Committee.

Cross File: HB 207 (Delegates Reznik and Love) - Health and Government Operations.

Information Source(s): National Conference of State Legislatures, World Health Organization, U.S. Environmental Protection Agency, Maryland Association of County Health Officers, Department of Health and Mental Hygiene, Maryland Association of Counties, Department of Legislative Services

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mlm/mwc

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