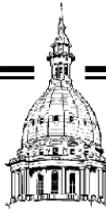




Senate Fiscal Agency  
P. O. Box 30036  
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## BILL ANALYSIS



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Senate Bills 839 and 840 (as introduced 2-13-96)  
Sponsor: Senator Dale L. Shugars  
Committee: Health Policy and Senior Citizens

Date Completed: 2-27-96

### CONTENT

The bills would add new provisions to the Public Health Code to provide for the regulation of tanning facilities and require parental consent before the owner of a tanning facility could allow a minor to use a tanning device. Senate Bill 839 would require a tanning facility owner to provide a customer with a written statement warning of the possible dangers of using a tanning device; display a poster that contained instructions and warnings; require a customer to acknowledge that he or she had read and understood the statement; require a tanning facility to report any injuries to the Department of Public Health and require the Department to establish a registry of the reports; provide that the owner of a tanning facility who violated the bill's provisions would be guilty of a State civil infraction and be liable for a fine of up to \$500; and allow persons to bring civil actions. Senate Bill 840 would require the owner or operator of a tanning facility, before allowing a minor to use the facility, to obtain the consent of the minor's parent or guardian; and require a person using a tanning device in a tanning facility to use protective eyewear.

Senate Bill 840 is tie-barred to Senate Bill 839. Following is a detailed description of each bill.

#### Senate Bill 839

The bill would regulate "tanning facilities", that is, locations that provided individuals with access to a tanning device, not including a private residence with a tanning device if the device were used only by the residence's owner or occupant. "Tanning device" would mean equipment that emitted electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers and was used for tanning the skin. A tanning device would include, but not be limited to, a sunlamp, tanning booth, tanning bed, and any accompanying equipment such as protective eyewear, timers, and handrails.

#### Warning Statement

Before an individual used a tanning device in a tanning facility, the owner or operator or an employee of the facility would have to give the person a written statement that contained all of the following information:

- Not wearing his or her own eye protection or eye protection provided to the person by the facility could cause damage to the eyes.

- Overexposure to the ultraviolet radiation produced by the tanning devices "causes burns".
- Repeated exposure to the ultraviolet radiation produced by the tanning devices could cause premature aging of the skin, skin cancer, or both.
- Abnormal skin sensitivity to ultraviolet radiation or burning could be caused by certain foods, cosmetics, and medication. The medication would include, but not be limited to, tranquilizers, diuretics, antibiotics, high blood pressure medication, and birth control medication.
- An individual taking a prescription drug or over-the-counter drug should consult a physician before using the tanning device.

Before allowing a customer to use a tanning device, the facility's owner or operator would have to require the customer to sign a written statement acknowledging that he or she had read and understood the written statement and agreed to use protective eyewear; require the customer to sign the statement at least once in a one-year period, and retain the statement for at least one year; and make the statement available for inspection upon request of a law enforcement officer.

### Warning Poster

The owner or operator of a tanning facility would have to display conspicuously a poster in an area frequented by customers, printed in at least 32-point bold type and in substantially the following form:

*Danger: Ultraviolet Radiation*

1. *Follow instructions*
2. *Avoid too frequent or too lengthy exposure. As with natural sunlight, exposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause chronic sun damage characterized by wrinkling, dryness, fragility, and bruising of the skin, and skin cancer.*
3. *Wear protective eyewear. Failure to use protective eyewear may result in severe burns and long-term injury to the eyes.*
4. *Ultraviolet radiation from sunlamps will intensify the effects of the sun. Therefore, do not sunbathe before or after exposure to ultraviolet radiation.*
5. *Some oral or skin medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult your physician before using a tanning device if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women on birth control pills who use this tanning device may develop discolored skin.*
6. *If you do not tan in the sun, you are unlikely to tan from use of this tanning device.*

### Prohibition/Liability

The owner or operator or an employee of a tanning facility could not claim, or distribute printed promotional material that claimed, or otherwise advertise that using a tanning device was safe, nonburning, or free from risk.

Compliance with the requirement to provide the written statement, and the requirement to display the warning poster would not diminish or otherwise limit or alter the liability of the owner or operator of a facility.

### Reporting

Within five working days after the owner or operator of a tanning facility received notice of an injury that was alleged to have occurred in the tanning facility, he or she would have to report that alleged injury to the Department of Public Health (DPH) on a form provided by the Department. The reporting form would have to contain the name of the person making the report; the name and

location of the tanning facility that was the subject of the report; the nature of the alleged injury; the name and address of the health care provider to whom the injured individual was referred, if any; and other information that the DPH required.

The DPH would have to maintain, in a retrievable form, all reports and establish a registry of them. A report maintained under the bill would be confidential, and the DPH would have to release the information contained in the report only upon written request of the person or owner or operator of the tanning facility who was the subject of the report, or his or her guardian, executor, attorney, or other person designated in writing by that person or owner or operator. The Department also could release the statistical information contained in the reports, without identifying information, to persons authorized by the DPH Director to conduct research studies or to other persons with whom the Director entered into a contract for data collection, maintenance, storage, retrieval, and quality control.

### Fines/Remedies

The owner or operator of a tanning facility who violated the bill would be responsible for a State civil infraction, and would be liable for a civil fine of up to \$500 for each violation. Proceedings would have to be conducted under those provisions of the Revised Judicature Act that provide for State civil infractions. Fines and costs collected would have to be disbursed as provided by the Revised Judicature Act.

In addition to any other enforcement action authorized by law, a person alleging a violation of the bill could bring a civil action for appropriate injunctive relief, if the person had used the tanning facility within 60 days before the civil action was filed. The bill provides that its remedies would be independent and cumulative; the use of one remedy by a person would not bar the use of other lawful remedies by that person or the use of a lawful remedy by another person.

### **Senate Bill 840**

The bill provides that before allowing a minor under 18 years old to use a tanning device in a tanning facility, the owner or operator of the tanning facility would have to require the presentment of a statement similar to the statement required under Senate Bill 839 (which would require a customer to sign an acknowledgment that he or she had read and understood the required statement regarding the possible dangers of a tanning device), signed by the minor's parent, legal guardian, or person in loco parentis (in place of a parent), indicating that the parent, guardian, or person had read and understood the statement, consented to the minor's use of a tanning device, and agreed that the minor would use either his or her own protective eyewear or the protective eyewear made available by the tanning facility.

The owner or operator of a tanning facility could not allow a minor who was less than 14 years old to use a tanning device in the tanning facility unless the minor were accompanied to the facility by a parent, legal guardian, or person in loco parentis, and the parent, guardian, or person signed a statement in the same manner as required above for an older minor.

The bill would require an individual who used a tanning device in a tanning facility to use either his or her own protective eyewear or the protective eyewear made available by the facility.

Legislative Analyst: G. Towne

## **FISCAL IMPACT**

### **Senate Bill 839**

The bill would have a minimal impact on State Department of Public Health expenditures. The Department would incur the costs of producing and providing an injury reporting form, and maintaining the registry.

### **Senate Bill 840**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: P. Graham

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.