

REGISTRATION OF TANNING FACILITIES; PROHIBIT MINORS FROM USING TANNING FACILITIES

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bills 4404 & 4405

Sponsor: Rep. Jim Townsend

Committee: Regulatory Reform

Complete to 10-7-13

A SUMMARY OF HOUSE BILLS 4404 & 4405 AS INTRODUCED 3-12-13

House Bill 4404 would require tanning facilities to register with the Department of Community Health.

House Bill 4405 would prohibit minors from being able to use a tanning device within a registered facility.

The bills would amend Article 12 (Environmental Health) of the Public Health Code.

Under current law, tanning facilities are not registered, tanning devices are not inspected, and facility operators are not licensed by the state. However, operators must obtain a signed consent form from the customer acknowledging certain potential dangers associated with the use of tanning devices and maintain disclosure-type signage within the facility. For customers under 18 years of age, the consent statement must also be signed by the customer's parent or legal guardian while the parent or legal guardian is physical presently present in the facility. Current requirements for tanning facilities do not apply to privately-owned tanning devices used only by the owner or other occupants of the private residence.

Further description of the bills follows.

House Bill 4404

The bill would add a new section to the Public Health Code (proposed MCL 333.13402) to require tanning facilities to register with the Department of Community Health. Tanning facilities would be prohibited from allowing customers to use a tanning device unless the facility has a valid certificate of registration.

Expiration

A certificate of registration would be valid for the calendar year for which the registration form was submitted, and all registrations, regardless of when an application is submitted, would expire on December 31 unless renewed for an additional calendar year.

Fee

The fee for an initial or renewal registration would be \$75 and would have to be submitted along with a registration form.

Penalties for violations

After providing proper notice and an opportunity for a hearing under the Administrative Procedures Act, the department would be allowed to deny, suspend, or revoke the registration of a tanning facility that is found to be in violation of Part 134 of the Public Health Code (which requires facility operators to obtain signed consent and post certain disclosure-type signage within a tanning facility and also, under House Bill 4405, would prohibit providing services to minors).

Anyone found in violation of the new section (requiring a valid certificate of registration to operate) would be guilty of a misdemeanor punishable by 93 days in jail and/or a \$2,000 maximum fine for each violation.

House Bill 4405

The bill would amend Section 13405 of the Public Health Code to prohibit a tanning facility owner from allowing a minor to use a tanning device.

Prohibition on tanning for minors

Currently, customers must sign a written statement acknowledging that exposure and/or overexposure to the ultraviolet radiation produced by a tanning device can have harmful effects on the skin and overall health. In the instance where a customer is under 18 years of age, the statement must also be signed by the customer's parent or legal guardian while the parent or legal guardian is physical presently present in the facility. House Bill 4405 would eliminate the requirement for co-signature and specifically prohibit minors from being allowed to use a tanning device at a tanning facility.

Violations a misdemeanor

An owner or operator of a tanning facility that allows a minor to use a tanning device would be guilty of a misdemeanor punishable by a fine of up to \$150 for each violation. Proof that the operator or an employee demanded and was provided with appropriate identification that the individual was not a minor would be a defense to an action for a violation. The bill specifies as identification: a driver's license or state identification card, military identification card, passport, or other government-issued identification containing the name, age, and a photograph of the individual.

FISCAL IMPACT:

House Bill 4404 has fiscal implications for state government. Costs to the Department of Community Health will include establishing a permanent system and staff for the registration of tanning facilities, and activity related to denial, suspension, or revocation of facility registration. First year start-up costs may be higher. Estimated annual costs are \$50,000--\$100,000 and 0.5–1.0 FTE position.

Registration fee revenue will support the registration program. Preliminary information suggests there are currently about 970 businesses in Michigan offering tanning services to which this bill may apply. Projected revenue from the \$75 annual fee proposed in the bill is \$65,000 per year, assuming about 875 registrants, or 90% of listed businesses.

New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

BACKGROUND INFORMATION:

According to the National Conference of State Legislatures, five states (California, Illinois, Nevada, Texas, and Vermont) currently prohibit the use of tanning devices by minors, and Oregon will become the sixth state to prohibit their use in 2014, but will still allow for their use by minors with a valid doctor's prescription. Additionally, Michigan is currently one of at least 33 states and the District of Columbia that regulates the use of tanning facilities by minors, which includes age prohibitions, parental consent, and/or parental accompaniment. For more information, see:

<http://www.ncsl.org/issues-research/health/indoor-tanning-restrictions.aspx>

Legislative Analyst: Jeff Stoutenburg
Fiscal Analyst: Susan Frey

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