

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: SB 546

INTRODUCER: Senator Sobel

SUBJECT: Tanning Facility Regulation

DATE: March 25, 2009      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bell/Hankins	Wilson	HR	<b>Fav/1 amendment</b>
2.	_____	_____	JU	_____
3.	_____	_____	HA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |                                         |
|------------------------------|-------------------------------------|-----------------------------------------|
| A. COMMITTEE SUBSTITUTE..... | <input type="checkbox"/>            | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input checked="" type="checkbox"/> | Technical amendments were recommended   |
|                              | <input checked="" type="checkbox"/> | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

This bill prohibits minors who are under the age of 16 from using tanning devices, such as tanning beds. Minors between the ages of 16 and 18 may use tanning facilities with detailed parental or guardian consent. The consent requirement includes a signed statement, witnessed by the tanning operator, by the minor's parent or guardian that includes an acknowledgement of the risks, an agreement that the minor will wear protective eyewear, and a specified number of tanning sessions authorized for the minor during a 12-month period.

This bill substantially amends s. 381.89, F.S.

**II. Present Situation:**

**Ultraviolet Radiation Exposure Risks**

Epidemiologic data suggest that most skin cancers can be prevented if children, adolescents, and adults are protected from ultraviolet (UV) radiation.<sup>1</sup> Skin cancer is the most common form of

<sup>1</sup> 2008/2009, CDC Skin Cancer Prevention and Education Initiative Fact Sheet. Found at: [http://www.cdc.gov/CANCER/skin/pdf/0809\\_skin\\_fs.pdf](http://www.cdc.gov/CANCER/skin/pdf/0809_skin_fs.pdf) (Last visited on March 14, 2009).

cancer in the United States. The two most common types of skin cancer, basal cell and squamous cell carcinomas, are highly curable. However, melanoma, the third most common skin cancer is more dangerous, especially among young people. Approximately 65 percent to 90 percent of melanomas are caused by exposure to ultraviolet (UV) light, or sunlight.<sup>2</sup> In 2005, 53,792 people in the United States were diagnosed with melanomas of the skin, 30,544 of them men and 23,248 of them women.<sup>3</sup> In Florida, 3,711 people in had a melanoma diagnosis in 2005.<sup>4</sup> People with certain risk factors are more likely than others to develop skin cancer. Some risk factors include: a lighter natural skin color; family history of skin cancer; exposure to the sun through work and play; a history of sunburns early in childhood or adolescence; skin that burns, freckles, reddens easily, or becomes painful in the sun; blue or green eyes; blond or red hair; and certain types and a large number of moles.

According to the Centers for Disease Control and Prevention (CDC), the best way to prevent skin cancer is to protect oneself from the sun by seeking shade, covering up skin exposed to the sun, wearing a wide brim hat, wearing sunglasses, and wearing sunscreen. The CDC recommends avoiding tanning beds and sunlamps because they emit ultraviolet rays that are as dangerous as those from the sun.<sup>5</sup> The Florida Department of Health (DOH), Bureau of Chronic Disease Prevention, also recommends that individuals avoid sunlamps and tanning salons to prevent skin cancer.<sup>6</sup>

More than one half of a person's lifetime UV light exposure occurs during childhood and adolescence.<sup>7</sup> The CDC recommends that school health education programs to prevent skin cancer advise students to avoid using sunlamps and tanning beds.<sup>8</sup> The National Health Interview Survey reported that in 2005, 8.7 percent of all teens used indoor tanning devices. Girls between the ages of 14 and 17 years were seven times more likely to use these devices than boys in the same age group.

As of February 2009, twenty-nine states and four counties regulated minors' use of tanning devices.<sup>9</sup> The policies that govern minors' use of tanning devices vary but generally include one or more of these limitations: age restrictions, parental accompaniment requirements, and parental written permission.

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<sup>2</sup> Centers for Disease Control and Prevention. Guidelines for school programs to prevent skins cancer. Found at: <<http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5104a1.htm>> (Last visited on March 14, 2009).

<sup>3</sup> United States Cancer Statistics: 1999-2005 Incidence and Mortality Web-based Report. Found at: <<http://apps.nccd.cdc.gov/uscs/>> (Last visited March 14, 2009).

<sup>4</sup> Florida CHARTS, Melanoma Incidence. Found at: <<http://www.floridacharts.com/charts/report.aspx?domain=02&indnumber=0447>> (Last visited March 14, 2009).

<sup>5</sup> 2008/2009, CDC Skin Cancer Prevention and Education Initiative Fact Sheet. Found at: <[http://www.cdc.gov/CANCER/skin/pdf/0809\\_skin\\_fs.pdf](http://www.cdc.gov/CANCER/skin/pdf/0809_skin_fs.pdf)> (Last visited on March 14, 2009).

<sup>6</sup> The Department of Health Skin Cancer Fact Sheet. Found at: <<http://www.doh.state.fl.us/Family/cancer/facts/index.html>>(Last visited March 14, 2009).

<sup>7</sup> Centers for Disease Control and Prevention. Guidelines for school programs to prevent skins cancer. Found at: <<http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5104a1.htm>> (Last visited on March 14, 2009).

<sup>8</sup> QuickStats: Percentage of Teens Aged 14-17 Years Who Used Indoor Tanning Devices During the Preceding 12 Months, by Sex, and Age. Found at: <<http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5540a9.htm>> (Last visited March 14, 2009).

<sup>9</sup> National Conference of State Legislatures, Tanning Restrictions for Minors. Found at: <<http://www.ncsl.org/programs/health/tanningrestrictions.htm>> (Last visited March 14, 2009).

## **Federal Regulation of Sunlamp Products**

Since 1979, the U.S. Food and Drug Administration (FDA) has regulated the manufacture of sunlamp products and ultraviolet lamps. The law, codified in 21 CFR 040.20, specifies several sunlamp product requirements including: protective eyewear, a UV radiation warning label, detailed user instructions, a timer system, a recommended exposure schedule, and the maximum recommended exposure time. The FDA also regulates the use of dihydroxyacetone (DHA), a color additive that darkens the skin by reacting with amino acids in the skin's surface that is commonly the active ingredient in most sunless tanning sprays or bronzers.

## **Regulation of Tanning Facilities in Florida**

The Florida DOH, Bureau of Community Environmental Health, is responsible for regulating and licensing facilities that operate tanning devices that emit electromagnetic radiation of wavelengths between 200 and 400 nanometers. Section 381.89, F.S., and Chapter 64E-17, Florida Administrative Code, list the requirements for a tanning facility operating license and the regulations tanning facilities must follow, including: sanitation standards, safety provisions, and record requirements. County health departments are responsible for inspecting and approving tanning facilities as a prerequisite to granting an operating license and inspecting operating tanning facilities biannually.

Tanning facilities are required to provide each customer a written warning that states:

- Not wearing the provided eye protection can cause damage to the eyes;
- Overexposure causes burns;
- Repeated exposure can cause premature aging of the skin or skin cancer;
- Abnormal skin sensitivity or burning may be caused by certain foods, cosmetics, or medications, including, without limitation, tranquilizers, diuretics, antibiotics, high blood pressure medicines, or birth control pills;
- Any person who takes prescription or over-the-counter medication should consult a physician before using a tanning device; and
- The tanning facility's liability insurance information or a statement that the facility does not carry liability insurance for injuries cause by tanning devices.

Tanning facilities are also required to post a sign near each tanning device that states, "Danger, Ultraviolet Radiation" with a list of detailed instructions. Facilities must require each customer to sign a written statement acknowledging that she or he has read and understands the warnings and agrees to use protective eyewear each time a customer uses a tanning device, or executes or renews a contract.

By law, tanning facilities are required to limit each customer to the maximum exposure time recommended by the manufacturer of the tanning device.<sup>10</sup> By rule, the DOH requires tanning facilities to limit customers to one tanning session within a 24-hour period.<sup>11</sup>

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<sup>10</sup> s. 381.89(6)(e), F.S.

<sup>11</sup> 64E-17.002, Florida Administrative Code.

Minors between the ages of 14 and 18 may use a tanning device if the tanning facility has a statement on file signed by the minor's parent or legal guardian stating that the parent or legal guardian has read and understands the warnings provided by the tanning facility, consents to the minor's use of a tanning device, and agrees that the minor will use the provided protective eyewear. Minors under the age of 14 must be accompanied by a parent or legal guardian during each visit to a tanning facility.

According to the DOH, there are currently more than 1,600 tanning facilities with over 7,100 tanning devices licensed by Florida county health departments. The DOH does not regulate products or devices that create the appearance of a tan, such as airbrush tanning or spray-on tanning.

### **III. Effect of Proposed Changes:**

The bill amends s. 381.89, F.S., relating to tanning facility regulation, to prohibit minors who are under 16 years of age from using tanning devices.

The bill authorizes tanning facilities to provide services to minors between the ages of 16 and 18, only after the tanning facility has a statement on file from the minor's parent or legal guardian, that was signed and witnessed by the tanning operator or proprietor of the tanning facility, that includes:

- An acknowledgement that the parent or legal guardian has read and understands the tanning warnings;
- Consent for the minor's use of the tanning device;
- An agreement that the minor will use the protective eyewear; and
- A specific number of tanning session authorized in a 12-month period.

The effective date of the bill is July 1, 2009.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

#### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

#### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

In order to comply with the new parental and guardian consent procedures in the bill, tanning facilities may incur a cost to revise, copy and print new parental or guardian tanning device consent forms.

Tanning facilities are likely to lose a portion of their business because the bill prohibits minors under the age of 16 from using tanning devices. There are no state statistics that report on the use of tanning devices by adolescents. However, nationally, the CDC estimates that 8.7 percent of teens between the ages of 14 and 17 use tanning devices. The DOH coordinated its fiscal impact of the bill with the Florida Indoor Tanning Association, and noted that tanning facilities that serve the adolescent population disproportionately will lose profits and could potentially close as a result of the bill. One tanning facility operator with five facility locations reported that 8-10 percent of its clients served are less than 16 years old, and the operator could potentially lose \$109,872 in profits annually.

Tanning facilities that also offer clients sunless tanning options may see an increase in clientele under the age of 16.

**C. Government Sector Impact:**

The DOH indicated that it may receive more tanning facility complaints as a result of the bill. If substantially more complaints were received, then the DOH indicates that it would incur a fiscal impact for the additional tanning facility inspections.

**VI. Technical Deficiencies:**

The bill creates four new numbered paragraphs in lines 65-70. Paragraphs are denoted as letters in the Florida Statutes.

**VII. Related Issues:**

Current law requires tanning facilities to limit customer tanning exposure to the maximum allowed exposure time based on the recommendations of the manufacturer of the tanning device and no more than one tanning session in a 24-hour period, by DOH rule. The bill requires parents or guardians of minors between the ages of 16 and 18 to authorize, in writing, a specified number of tanning sessions for a minor during a 12-month period.

The DOH expressed concerns that the parent or guardian may authorize more tanning sessions than the current limits, and recommends amending the bill to limit the number of tanning

sessions that a parent or guardian of a minor between the ages of 16 and 18 can authorize to no more than the current tanning exposure limits.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

**Barcode 252514 by Health Regulation on March 25, 2009:**

The amendment makes a technical correction. It also clarifies that the number of tanning sessions a parent or legal guardian may authorize must not exceed the maximum exposure time recommended by the manufacturer of the tanning device or the maximum allowed by Department of Health administrative rule.