



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

HOUSE BILL NO. 1259

PRINTERS NO. 1789

PRIME SPONSOR: Farry

### COST / (SAVINGS)

FUND	FY 2012/13	FY 2013/14
General Fund	\$0	See Fiscal Impact

**SUMMARY:** House Bill 1259, Printer's Number 1789, provides for the regulation of indoor tanning facilities. The effective date is 60 days; however, inspection provisions are effective in 24 months.

**ANALYSIS:** This legislation creates a free standing act, the Indoor Tanning Regulation Act and prohibits an operator from establishing or operating a tanning facility without a certificate of registration from the Department of Health (DOH). A registration application shall include:

- The name, address and telephone number of the tanning facility and owner.
- A signed and dated certification that the applicant has read and understands the requirement of this act.
- A copy of the operating and safety procedure of the tanning facility.
- Any additional information required by the DOH.

The bill requires an annual fee of \$150 per salon that operates 2 beds or less, \$300 per salon that operates up to 10 beds, and an additional fee of \$20 for each tanning device in excess of 10 devices. The legislation further provides that registration fees are intended to be sufficient to cover the cost of the annual inspection and administration of this act. The bill requires the certificate of registration to be posted in a clearly visible location and it shall expire annually and be nontransferable.

The bill allows DOH to deny, suspend or revoke a license for the following reasons:

- Submission of false statements in application, reports, plans or specifications.
- For conditions which violate the act.
- Operation of the tanning facility in a manner that threatens public health or safety.
- Failure to remit registration fee.

DOH may conduct an inspection at reasonable times at any tanning facility, including its records, to inspect and determine whether the tanning facility is in compliance. Inspections may be performed for the purposes of a random sample, at the request of an operator or in response to a complaint.

Tanning facilities are required to post a warning sign in a readily visible place which meets specified dimension and lettering requirements and states "DANGER - ULTRAVIOLET RADIATION." The sign must include the manufacturer's instructions and warnings related to overexposure, sunbathing after exposure, protective eyewear, and medications or cosmetics. The sign must include a DOH telephone number to report injury. The sign must also state "IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN FROM USE OF AN ULTRAVIOLET LAMP OR SUNLAMP."

Customers must receive a written warning statement relating to the use of eye protection, overexposure, repeated overexposure, skin reactions, medication interaction and family history of skin cancer, which must be signed prior to initial exposure. The warning statements shall not affect the liability of the owner, manager or operator of a tanning facility in the event that a customer fails to follow the warning statement and incurs damages.

HB 1259 requires minors 17 years of age to have written authorization of the person's parent or legal guardian indicating that the parent or legal guardian consents to the use of a tanning facility by the child. Children 16 years of age and younger will be prohibited from the use of a tanning facility. Individuals 18 years of age and above, as adults, will be able to determine their own health consequences.

The bill requires the use of tanning beds manufactured and certified under Federal regulation. HB 1259 further requires all tanning devices to:

- Meet the National Fire Protection Association's National Electrical Code and any other state or local electrical codes.
- Have physical barriers to protect customers from injury due to touching or breaking lamps.
- Be maintained in good repair.

The bill also provides requirements for stand-up booths.

Operators shall require customers to wear protective eyewear. Eyewear is to be provided free of charge and sanitized to meet Federal standards.

Operators are to be able to recognize the skin type of the customers based on the Fitzpatrick scale and recommend exposure times accordingly. The bill requires operators to maintain records of customer visits for three years.

A trained operator must be present at the facility during all operating hours while tanning equipment is in operation. A tanning facility must designate an operator who is trained in the following:

- Knowledge of the requirements of this section and of federal regulations relating to sunlamp products and ultraviolet lamps intended for use in sunlamp products.
- Proper use of the FDA's recommended exposure schedule.

- Procedures for correct operation of the tanning facility.
- Recognition of injuries and the facility's procedures of handling the injuries from overexposure to ultraviolet radiation.
- Manufacturer's procedures for operation and maintenance of the tanning device.
- Use of protective eyewear.
- Emergency procedures in case of injury.
- Effects of ultraviolet radiation, acute and chronic exposure and health risks.
- Photosensitizing agents.
- The six different skin types.

A legal entity that operates a tanning facility in violation of this act shall be subject to suspension or revocation of the tanning facility's certificate of registration. A legal entity that violates the prohibition on use of a tanning facility by a minor will be subject to monetary penalties of \$250 for the first violation, \$500 for the second, and up to \$1,000 for any subsequent violation.

All fees, fines, and penalties imposed in accordance with the act will be paid into a new Indoor Tanning Regulation Fund and shall be used by DOH in performance of its duties under this act.

**FISCAL IMPACT:** The department estimates personnel and operating costs for FY2013-14 at approximately \$1,400,000. Assuming there are approximately 2,000 tanning facilities within the Commonwealth that would require the \$300 annual registration, these costs would be offset by approximately \$600,000. Therefore, the net cost in FY2013-14 is estimated at \$800,000. It is important to note that in the absence of any reliable estimate as it relates to the number of tanning facilities in the Commonwealth, it is difficult to provide a comprehensive cost estimate.

Also, the legislation does provide that the department may increase the registration fees by regulation to ensure implementation of the act.

**PREPARED BY:** Janelle Lynch  
House Appropriations Committee (R)

**DATE:** June 20, 2013

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*