

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 349

PRINTER'S NO. 1701

AMOUNT

FY 2012-2013
\$600,000 Startup Costs

FUND

General Fund

DATE INTRODUCED

January 31, 2011

PRIME SPONSOR

Senator Browne

HISTORY OF BILL

Referred to PUBLIC HEALTH AND WELFARE, Jan. 31, 2011

Reported as committed, June 8, 2011

First consideration, June 8, 2011

Re-referred to APPROPRIATIONS, June 14, 2011

Re-reported as amended, Oct. 24, 2011

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 349 establishes the Indoor Tanning Regulation Act by prohibiting a person from establishing or operating a tanning facility without a license from the Department of Health (Department).

A license application shall include:

1. The name, address and telephone number of the tanning facility and owner.
2. The manufacturer, model number and type of ultraviolet lamp or tanning device used.
3. The name of the equipment supplier, installer and service agent of each ultraviolet lamp or tanning device used.
4. A signed and dated certification indicating the applicant understands the act.
5. A copy of the operating and safety procedures of the facility.
6. Any additional information required by the Department.

Senate Bill 349 requires an annual license fee of \$300 per tanning facility and an additional fee of \$20 for each tanning device in excess of ten tanning devices. The legislation further provides that license fees are intended to be sufficient to cover the cost of the annual inspection and administration of this act. The bill requires the license to be posted in a visible location. The license shall expire annually and the licenses are nontransferable.

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

1. Submission of false statements, reports, plans or specifications.
2. Conditions that violate the act.
3. Operation of the facility in a manner that threatens public health or safety.
4. Failure to allow the department to enter the facility at reasonable hours for inspection and investigation.
5. Failure to pay license fees.

Amendment A05692 made the following changes to the bill:

- States that the Department "may" conduct an initial inspection of a licensed facility, but no longer requires it to do so; and
- Mandates the Department to randomly inspect licensed facilities on an annual basis.

Inspections shall include:

1. The operation of the facility.
2. Review of required records and training documentation.
3. Operator understanding and competency.
4. Other areas under this act.

Facilities are required to post a warning sign in a visible place which meets specified dimension and lettering requirements which state "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 Department of Health telephone number to report injury. The sign must 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 that 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.

The bill authorizes only tanning beds manufactured and certified under Federal regulation.

Requires all tanning devices to:

1. Meet the National Fire Protection Association's National Electrical Code and other electrical codes.

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2. Have physical barriers to protect customers from injury due to touching or breaking lamps.
3. Be maintained in good repair.

Senate Bill 349 provides requirements for stand-up booths; customers are required to wear protective eyewear. Eyewear is to be provided free of charge, sanitized and meet Federal standards.

A trained operator is to be present when the equipment is operated. Operators are to be able to recognize the skin type of the customer based on the Fitzpatrick scale and recommend exposure times. The bill requires operators to maintain records of customer visits which must be maintained for three years.

In addition, the bill requires minors to be accompanied by a parent or guardian in order to use a tanning device for the first time. Parents are required to sign a warning statement. Persons under 14 must have written permission from a licensed physician.

It is a misdemeanor to violate the act. The bill allows the department to suspend or revoke a license for violation.

The act is effective in 180 days.

FISCAL IMPACT:

First year start-up costs are estimated at \$1,200,000. Assuming that there are approximately 2,000 tanning facilities within the Commonwealth that would require licensure, these costs would be offset by approximately \$600,000 in annual licensing fees. Net cost to the Commonwealth in year one is, therefore, estimated at \$600,000.

The legislation provides that if licensing and renewal fees are not sufficient to offset the Department's costs for annual inspections and administration of this act, the Department may increase fees by regulation in an amount sufficient to cover such costs.