

SUBJECT: Penalties for sexually oriented tanning facilities

COMMITTEE: Public health — favorable, without amendment

VOTE: 5 ayes — Berlanga, Hirschi, Glaze, Maxey, McDonald

0 nays

4 absent — Coleman, Delisi, Janek, Rodriguez

WITNESSES: For — None

Against — None

On — Dennis Baker, Texas Department of Health

DIGEST: HB 2253 would prohibit the Texas Department of Health from issuing or renewing a permit under the Tanning Facility Regulation Act, Health and Safety Code, chapter 145, to a person who holds a license or a permit as a sexually oriented business under a municipal or county regulation (Local Government Code, sec. 243.007) or who has been convicted of sexual, public indecency or organized criminal activity offenses.

A person would be considered convicted of an offense if the person receives community supervision after a sentence is imposed or after the person enters a plea of guilty or *nolo contendere* and is placed on deferred adjudication.

A facility operating with a local government sexually oriented business license would commit a Class C misdemeanor if the word "tanning" was used in a sign or advertising, and a Class A misdemeanor if the person had previous convictions. A Class C misdemeanor is punishable by a maximum fine of \$500. A Class A misdemeanor is punishable by a maximum penalty of one year in jail and a \$4,000 fine.

The department would be required to revoke permits held by ineligible persons currently holding permits. A person who holds a permit under the Tanning Facility Regulation Act before the effective date of this act and

who would be ineligible for the permit under this act, could continue to operate as a tanning facility until the permit expired.

**SUPPORTERS
SAY:**

HB 2253 would help local communities shut down certain sexually oriented businesses by giving the Department of Health authority to revoke the permits of sexually oriented tanning businesses. By also prohibiting the use of the word "tanning" in advertisements, HB 2253 would also remove the guise of legitimacy that the word "tanning" can impart to adult, sexually oriented businesses.

Sexually oriented tanning facilities compromise the reputations of legitimate tanning facilities, create a public health concern and endanger the quality of neighborhoods. The Texas Department of Health should not be in the business of permitting sexually oriented businesses.

**OPPONENTS
SAY:**

HB 2253 is unnecessary and will do little to decrease the operations of sexually oriented businesses in Texas. Most of these businesses do not attempt to obtain a license under the Tanning Facility Regulation Act or obtain permits or licenses under the Local Government Code. Prohibitions in using the word "tanning" will just cause sexually oriented businesses to use another euphemism, such as calling themselves a "modeling" business or posing as lingerie stores.

NOTES:

Other bills relating to sexually oriented tanning facilities include HB 2254 and HB 2255 by Davila; both are pending in the House Public Health Committee. HB 2254 would require the department to set permit fees for sexually oriented tanning facilities at \$550 and \$250 for renewals. HB 2255 would require sexually oriented tanning facilities to post a warning sign visible to a person entering the facility that says "This establishment is licensed as a sexually oriented business. The primary service provided by this establishment is not tanning. Prostitution and solicitation of prostitution are crimes under the laws of this state."

A House floor amendment offered by Rep. Davila to HB 2027 by Yarbrough, added similar provisions to the Tanning Facility Regulation Act. HB 2027 has been referred to the Senate Health and Human Services Committee.