

- SUBJECT:** New regulations for tanning facilities
- COMMITTEE:** Public Health — favorable, without amendment
- VOTE:** 7 ayes — Gray, Coleman, Capelo, Delisi, Glaze, Maxey, Uresti
0 nays
2 absent — Hilderbran, McClendon
- WITNESSES:** For — Shelley Sekula, M.D., Texas Medical Association and Texas Dermatological Society
Against — None
On — Cynthia Culmo, Texas Department of Health
- DIGEST:** HB 1155 would amend laws regulating tanning facilities in the Health and Safety Code to:
- ! require in the written warnings given to customers statements that they should avoid a tanning device if they have pale eyes or very fair skin that always burns or a family or personal medical history of skin cancer;
 - ! require in already required warning signs notice of a 1-800 number for a customer to call the Texas Department of Health (TDH) to report an injury regarding a tanning facility or tanning device;
 - ! require tanning facility operators to post three color photographs, as described by TDH rule, on or near each warning sign, showing magnified lesions of basal cell carcinoma, squamous cell carcinoma, and malignant melanoma;
 - ! require customers of tanning facilities to provide a photo identification;
 - ! prohibit tanning facilities from allowing children under age 18 to use a tanning device;
 - ! newly require in records now kept by tanning facilities information about a customer's eye color, skin type, and family and personal history of skin cancer;
 - ! require operators to keep incident logs at each tanning facility for three years to record injuries, use of tanning devices by customers not wearing

protective eyewear, mechanical problems with tanning devices, and customer complaints;

- ! require TDH to give each applicant for tanning facility licensing or renewal a written copy of the Fitzpatrick scale, which classifies skin types by the degree to which they burn or tan in 10 to 45 minutes of sun exposure; and
- ! require TDH to conduct a public education campaign about the dangers of tanning and to raise tanning facility licensing fees to recover the costs of that campaign.

This bill would take effect September 1, 1999. TDH would have to develop all necessary rules by November 1, 1999. Tanning facility operators would not have to post the newly amended warning signs and photographs until December 1, 1999.

**SUPPORTERS
SAY:**

The tanning facility industry is growing rapidly in Texas, despite increasing scientific evidence that tanning is dangerous to life and health. This bill would not infringe on private market practices but would help consumers make better decisions about whether they should use tanning beds and would help them report to regulators any dangerous practices by tanning facilities.

The rate of malignant melanomas — lesions that are cancerous — has been found to be higher in people who use tanning beds than in those who do not. The ultraviolet light emitted from tanning beds is two to three times higher than that emitted by the sun at noon. Texas has one of the highest rates of melanomas, resulting in higher medical expenditures by the public, private individuals, and health-benefit plans and more cancer-related suffering and death.

Most customers of tanning facilities do not know that tans received under a tanning device do not provide the same skin protection as a tan acquired under the sun. Also, people who use tanning facilities tend to tan outdoors as well and therefore are at greater risk of cancer than those who tan only naturally.

Children should be strictly prohibited from using tanning beds for the same reasons children are prohibited from smoking. A child's skin is more vulnerable than an adult's to damage that can lead to cancer in later years. Teenagers often have poor judgment and think they are immortal and not

prone to medical problems later on in life. Allowing parental consent for a minor's use of a tanning device does not protect children whose parents do not know enough about the dangers of skin cancer or who do not care enough about their children's health.

Texans cannot rest assured that all tanning facilities are safe. TDH inspects facilities on a risk basis only and does not perform precicensure inspections. Many facilities are doing business without a license. This bill would help report to the state unlicensed, potentially dangerous businesses by requiring facilities to post a 1-800 telephone number for customers to call.

Requiring the tanning facility business to help pay for a public education campaign against tanning would be a fair way to fund such a program, since they are contributing to the increasing rate of skin cancer in this state. Any cost increases due to this bill would be relatively minor and would result in insignificant cost increases to the customer if the operator decided to pass on the costs.

OPPONENTS
SAY:

This bill would intervene unduly in private commerce. It would raise the cost of business unnecessarily and reduce consumer access to tanning devices. Licensed tanning facilities provide a safe and demanded service to thousands of Texas customers who value the appearance of tanned skin.

Most people know of the dangers of overexposure to ultraviolet rays. People are responsible for their own behavior and may receive a tan safely in tanning facilities. Requiring potentially distasteful photographs on a warning sign, new written warnings about whether a customer should use a tanning device, and a 1-800 telephone number for TDH would do little to deter customer use of a facility or to improve customer access for help, but these measures would raise business costs.

The bill also would intrude on parental rights. Children under 18 already are protected from excessive or potentially dangerous use of tanning devices because they can use tanning facilities only with the written consent of their parents. The state has no business interfering with a parent's decision about something that is not harmful when used properly.

HB 1155
House Research Organization
page 4

OTHER
OPPONENTS
SAY:

If the state wants to conduct a public education campaign against sun tanning, it should do so using general revenue or tobacco settlement funds, and not penalize the legitimate business of tanning facilities through fee increases.

NOTES:

HB 1155 was placed on the Local, Consent, and Resolutions Calendar for May 4 but was withdrawn. The Local and Consent Calendars Committee transferred the bill to the Calendars Committee on May 5.