

SUBJECT: Prohibiting the use of a tanning facility by a minor

COMMITTEE: Public Health — favorable, without amendment

VOTE: 9 ayes — Kolkhorst, Naishtat, Coleman, Collier, Cortez, S. Davis, Guerra, S. King, Sheffield
2 nays — Laubenberg, Zedler

SENATE VOTE: On final passage, April 17 — 25-6 (Birdwell, Estes, Hancock, Hegar, Nichols, Paxton)

WITNESSES: (*On House companion bill, HB 598*)
For — Susanna Holt Cutrone; Sabrina Nelson, American Cancer Society Cancer Action Network; Donna Regen; Claudia Rodas, American Cancer Society Cancer Action Network; Michael Wilkerson, Texas Dermatological Society; (*Registered, but did not testify:* Troy Alexander, Texas Medical Association; Teresa Devine, Blue Cross and Blue Shield of Texas; Kathy Eckstein, Children’s Hospital Association of Texas; Marisa Finley, Scott and White Center for Healthcare Policy; Marshall Kenderdine, Texas Pediatric Society; Larry Regen)
Against — David Hoel and Allen Miller, Palm Beach Tan; Joseph Levy, American Suntanning Association, International Smart Tan Network;
On — Jeffrey Gershenwald, UT MD Anderson Cancer Center; (*Registered, but did not testify:* Tom Brinck, Department of State Health Services)

BACKGROUND: Health and Safety Code, sec. 145.002, defines a tanning device as any equipment, including a sunlamp, tanning booth, and tanning bed, that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers and is used for the tanning of human skin. The term does not refer to spray tanning.

The following persons are prohibited from using a tanning device at a tanning facility:

- a person younger than 16 and-one-half years old; and
- a person younger than 18 years old unless their parent or legal guardian consents in person and in writing that the person younger than 18 years old could use the device. Consent can be revoked at any time.

Under Health and Safety Code, sec. 145.008(g), before a person under the age of 18 can use a tanning facility device for the first time, the person must give the operator a written informed consent statement, signed and dated by the person and the person's parent or legal guardian, stating that the person and the parent or legal guardian have read and understood the Texas Medical Board advisory statement warning of the dangers of tanning and agree that the minor will use protective eyewear at all times while using the tanning device.

Under Health and Safety Code, sec. 145.008(i), a tanning facility must maintain a record for each customer until the third year after he or she last used a facility's tanning device. For customers younger than age 18, the record includes the signed consent statement.

DIGEST:

SB 329 would raise the age at which a person could legally use a tanning facility's tanning device from 16 and-one-half years old to 18 years old.

The bill would eliminate all language that currently allows a person younger than age 18 to use a tanning device with parental consent, except that a tanning facility still would be required to keep records for customers younger than age 18 who used a tanning device before the bill took effect until three years after the date the customer last used the device.

The bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

SB 329 would protect a vulnerable population, children younger than age 18, from increasing their risk of skin cancer by using tanning devices at a tanning facility. The bill also would reduce health care costs by helping to lower the incidence of skin cancer linked to use of tanning devices in Texas.

Overwhelming scientific evidence links indoor tanning with an increased risk of melanoma, basal cell carcinoma, and squamous cell carcinoma. The

bill is in line with the International Agency for Research on Cancer (IARC), part of the World Health Organization (WHO), which classified as carcinogenic ultraviolet-emitting tanning devices, such as tanning beds and sunlamps. The U.S. Department of Health and Human Services also considers UV radiation a carcinogen. There is no adequate medical justification for the need for full-body indoor tanning, and research shows those younger than age 35 are at the highest risk of developing skin cancer from UV exposure.

Any skin condition for which a doctor recommends light tanning treatment should be addressed in a controlled and localized way through medical instruments in a doctor's office. SB 329 would not adversely impact the business of small tanning salon owners, because minors still could use alternative tanning products offered by tanning facilities, such as spray tans. The state has not seen a shift to increased outdoor tanning after limiting minor access to indoor tanning facilities in 2009, and there is no reason to believe that SB 329 would have this effect.

Minors younger than age 18 cannot buy cigarettes, another well-known carcinogen, even with their parents' permission. Texas should limit minors' access to indoor tanning as well. The risk of a minor illegally using fake identification to tan indoors should not prevent the Legislature from sending a message that tanning carries a public health risk. The requirement to provide identification as proof of age would pose a significant barrier against minors illegally using tanning beds, just as it does for minors seeking to illegally use alcohol or cigarettes.

**OPPONENTS
SAY:**

SB 329 would impose unnecessary further restrictions on tanning by minors. The tanning industry already has adequate oversight by the state and federal government. The bill would restrict personal freedom without improving public health. Minors older than 16 and one-half years old already are required to obtain parental consent to use a tanning facility tanning device. The bill would interfere with the ability of parents to make decisions about the health of their children.

There are some skin conditions, including psoriasis or eczema, for which a doctor would prescribe light tanning treatment. While such a procedure often would be performed in a dermatologist's office, SB 329 should not prevent children in rural areas that may not have convenient access to treatment in a doctor's office to tan for medical conditions under the

supervision of their parents. This bill unnecessarily would take away customers from small-business owners who operate tanning facilities.

SB 329 would not change teen behavior but would make teens shift from using indoor tanning to outdoor tanning, which some studies show is more dangerous. Teenagers also are susceptible to peer pressure regarding tanning. Making indoor tanning illegal for minors would increase its desirability for those younger than age 18, leading to a possible rise in the use of tanning devices by minors showing fake identification.

NOTES:

SB 329 is identical to the House companion bill, HB 589 by Zerwas, which was left pending following public testimony in the House Public Health Committee on April 17.