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Indicates New Matter

COMMITTEE REPORT

March 8, 2018

**H. 4412**

Introduced by Rep. Henderson

S. Printed 3/8/18--H.

Read the first time January 9, 2018.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 4412) to amend Section 13‑7‑45, Code of Laws of South Carolina, 1976, relating in part to the regulation of tanning establishments, so as to authorize the, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, SECTION 1, by striking Section 13-7-45(A)(3) and inserting:

/ (3) The department may in its discretion inspect a source of nonionizing radiation which is used in a commercial establishment for the tanning of human skin to protect public health and safety and shall ~~have no duty to~~ inspect a source of nonionizing radiation ~~unless~~ which is used in a commercial establishment for the tanning of human skin if it has received credible information indicating a violation of applicable statutes or regulations or the existence of a public health emergency. The department may retain ~~up to thirty thousand dollars from the~~ a sufficient amount of the fees collected to be used for the administration of this program. No other source of funds may be used for the administration of this program. /

Renumber sections to conform.

Amend title to conform.

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Prefiled on November 9, 2017**

**State Expenditure**

This bill will allow DHEC, at its discretion, to inspect sources of non-ionizing radiation used in commercial tanning establishments. Currently, DHEC has no duty to inspect sources of non-ionizing radiation unless it has credible information indicating a violation of applicable statutes or regulations or the existence of a public health emergency. This has been interpreted by DHEC as receiving a complaint or a report of an injury or burn at the facility. DHEC currently investigates an average of seven facilities per year under this statute. These investigations are handled by the Tanning Complaint Program, which is operated using $30,000 of fees that DHEC retains from tanning facility registrations pursuant to Section 13-7-45 (A)(3).

DHEC indicates that under this provision it plans to implement a comprehensive inspection program for the approximately 450 tanning facilities in the state, with inspections occurring on a three year cycle. This inspection program would require 1.5 Full Time Equivalent positions; one Environmental Health Manager I to serve as an inspector and portions of two positions totaling 0.5 FTEs to support the program. This would allow 150 facilities per year to be inspected. DHEC estimates that the total recurring cost to support a tanning inspection program is $123,710. This $123,710 includes the $30,000 currently dedicated to the Tanning Complaint Program, an additional $70,263 for salaries and fringe, and an additional $23,447 in operating costs. This estimate is based on DHEC’s experience between 1990 and 2006 when such an inspection program previously existed. DHEC would be required to revise the regulations relating to tanning facilities, but the inspections could begin prior to the regulatory changes taking effect. DHEC also estimates that non-recurring start-up funds in the amount of $7,957 would be necessary to equip the inspector and administrative staff. Therefore, this bill would result in an increase in other funds expenditures of $101,667 in FY 2018-19 and $93,710 in each year thereafter.

**State Revenue**

The bill would allow DHEC to retain a sufficient amount of the fees collected for the administration of the program. Currently, DHEC is limited to retaining $30,000 pursuant to Section 13-7-45 (A)(3). Revenues in excess of $30,000 were remitted to the general fund. The agency reports that fee revenues for this program have averaged $123,710 over the last three years. DHEC estimates that $123,710 is approximately the amount necessary to administer the program. Therefore, this bill would reduce general fund revenues by $93,710 on a recurring basis and increase other fund revenues by $93,710 on a recurring basis.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 13‑7‑45, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING IN PART TO THE REGULATION OF TANNING ESTABLISHMENTS, SO AS TO AUTHORIZE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO INSPECT SOURCES OF NONIONIZING RADIATION AND TO RETAIN FEES TO ADMINISTER THE PROGRAM.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 13‑7‑45 of the 1976 Code is amended to read:

“Section 13‑7‑45. (A)(1) The South Carolina Department of Health and Environmental Control shall promulgate regulations and establish a schedule for the collection of annual fees for the licensing, registration, and certification of users of the sources of ionizing radiation. The fees collected must be sufficient, in the judgment of the department, to protect the public health and safety and the environment and to recover the costs incurred by the department in regulating the use of ionizing radiation and in performing emergency corrective measures intended to protect the public health and safety or the environment pursuant to the provisions of law.

(2) The department shall promulgate regulations and establish a schedule for the collection of an annual fee for the registration of a source of nonionizing radiation which is used in a commercial establishment for the tanning of human skin. The registration fee must be sufficient in the judgment of the department to protect the public health and safety and the environment and to recover the costs incurred by the department in registering the source of nonionizing radiation and in performing emergency corrective measures intended to protect the public health and safety or the environment pursuant to the provisions of law.

(3) The department may in its discretion inspect a source of nonionizing radiation which is used in a commercial establishment for the tanning of human skin to protect public health and safety and shall ~~have no duty to~~ inspect a source of nonionizing radiation ~~unless~~ which is used in a commercial establishment for the tanning of human skin if it has received credible information indicating a violation of applicable statutes or regulations or the existence of a public health emergency. The department may retain ~~up to thirty thousand dollars from the~~ a sufficient amount of the fees collected to be used for the administration of this program.

(B) In determining the sufficiency of the fees to be charged and collected, the department shall consider an arrangement existing between South Carolina and a registrant, a licensee, a certificant, another state, or a federal agency under which costs incurred by the department in regulating the use of ionizing and nonionizing radiation and in performing emergency corrective measures intended to protect the public health and safety and the environment are recoverable by this State.

(C) A registrant, licensee, or certificant who fails to pay the fees required by regulation of the department within thirty days after payment is due also shall pay a penalty of fifty dollars. If failure to pay the required fees continues for more than sixty days after payment is due, the registrant, licensee, or certificant must be notified by the department by certified mail to be sent to his last known address that his registration, license, or certificate is revoked and that activities permitted under the authority of the registration, license, or certificate must end immediately. The registration, license, or certificate may be reinstated by the department upon payment of the required fees, the penalty of fifty dollars, and an additional penalty of one hundred dollars if the registrant, licensee, or certificant is otherwise in good standing, in the judgment of the department, and presents to the department a satisfactory explanation for his failure to pay the required fees.”

SECTION 2. This act takes effect upon approval by the Governor.

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