COMMITTEE REPORT

March 7, 2019

**H. 3807**

Introduced by Reps. Felder and Bernstein

S. Printed 3/7/19--H.

Read the first time January 30, 2019.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 3807) to amend the Code of Laws of South Carolina, 1976, to enact the “Teen Skin Cancer Prevention Act” by adding Chapter 129 to Title 44 so as to prohibit, etc., respectfully

**REPORT:**

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

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 30, 2019**

**State Expenditure**

This bill requires an individual to be at least eighteen years of age to use tanning equipment and requires operators or registrants of tanning facilities to post permanent signs to notify customers of this age requirement. The bill also allows DHEC to promulgate regulations to implement the new chapter and to collect a civil penalty in the amount of $500 for a violation to a provision in this chapter.

DHEC currently regulates tanning facilities and conducts onsite inspections when needed. This bill will not materially alter their oversight or regulatory practices because it requires the department to perform activities that will be conducted in the normal course of agency business. Thus, this bill will have no expenditure impact on the general fund, other funds, or federal funds of the agency.

**State Revenue**

This bill allows DHEC to impose a civil penalty of $500 on a tanning facility registrant or operator for violations. DHEC indicates that it has not collected any fines or penalty money from the regulation of tanning facilities since 2016. Assuming the same pattern in the future, this bill will have no revenue impact on the agency.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “TEEN SKIN CANCER PREVENTION ACT” BY ADDING CHAPTER 129 TO TITLE 44 SO AS TO PROHIBIT INDIVIDUALS UNDER EIGHTEEN YEARS OF AGE FROM USING TANNING EQUIPMENT IN TANNING FACILITIES, TO ESTABLISH PENALTIES, AND FOR OTHER PURPOSES.

Whereas, the rate of melanoma in South Carolina has increased over the past decade. Nationwide, skin cancer is the most commonly diagnosed cancer and rates have been rising for the past thirty years; and

Whereas, according to a 2015 state survey of youth risk behavior, nearly twenty‑two percent of South Carolina girls in the twelfth grade reported using a tanning bed one or more times in the past twelve months, higher than the national average of sixteen percent; and

Whereas, the greatest avoidable known risk factor for skin cancer is the use of indoor tanning devices, and tanning before the age of thirty‑five increases the risk of melanoma by fifty‑nine percent, squamous cell carcinoma by sixty‑seven percent, and basal cell carcinoma by twenty‑nine percent; and

Whereas, current law in the State pertaining to the regulation of tanning facilities, including discouraging the use of tanning facilities by minors through the withholding of consent by parents, has not resulted in reduced indoor tanning among youth, and to protect youth from the harmful effects of artificial ultraviolet radiation, current law should prohibit minors from using such equipment and facilities. Now, therefore,

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

SECTION 1. This act may be cited and be known as the “Teen Skin Cancer Prevention Act”.

SECTION 2. Title 44 of the 1976 Code is amended by adding:

“CHAPTER 129

Teen Skin Cancer Prevention

Section 44‑129‑10. As used in this chapter, unless the context requires otherwise:

(1) ‘Consumer’ means any individual who is provided access to a tanning facility that is subject to registration and regulation pursuant to Chapter 7, Title 13.

(2) ‘Department’ means the South Carolina Department of Health and Environmental Control.

(3) ‘Operator’ means any individual designated by a registrant to operate or to assist and instruct the consumer in the operation and use of the tanning facility or tanning equipment, including an individual who conducts one or more of the following activities:

(a) determining consumers’ skin type;

(b) determining the suitability for use of a tanning device by prospective consumers;

(c) informing the consumer of the dangers of ultraviolet radiation exposure including photoallergic reactions and photosensitizing reactions;

(d) determining consumer use of potentially photosensitizing agents;

(e) assuring the consumer reads and properly signs all forms required by these regulations;

(f) reviewing, signing, and ensuring required documentation is completed for minors or illiterate or visually impaired consumers;

(g) maintaining required consumer exposure records;

(h) recognizing and reporting consumer actual or alleged ultraviolet radiation injuries to the registrant;

(i) instructing the consumer in the proper use of protective eyewear; and

(j) setting timers which control the duration of exposure.

(4) ‘Registrant’ means any individual registered with the department in accordance with the provisions of Chapter 7, Title 13, and regulations promulgated pursuant to that chapter.

(5) ‘Tanning equipment’ means ultraviolet or other lamps and equipment containing such lamps intended to induce skin tanning through the irradiation of any part of the living human body with ultraviolet radiation.

(6) ‘Tanning facility’ means any location, place, area, structure, or business that provides consumers access to tanning equipment. For the purpose of this definition, tanning equipment registered to different persons at the same location and tanning equipment registered to the same person, but at separate locations, shall constitute separate tanning facilities.

(7) ‘Ultraviolet radiation’ means electromagnetic radiation with wavelengths in air between two hundred nanometers and four hundred nanometers.

Section 44‑129‑20. An individual must be at least eighteen years of age to use tanning equipment in a tanning facility in this State.

Section 44‑129‑30. Every operator of tanning equipment in this State and every tanning facility registrant subject to Chapter 7, Title 13, and applicable regulations promulgated pursuant to that chapter, shall comply with or ensure compliance with the following:

(1) The operator shall prohibit an individual under eighteen years of age from using any tanning equipment, or otherwise being a consumer of the tanning facility, and shall demand proper proof of age to verify that an individual is at least eighteen years of age. Failure to demand identification to verify an individual’s age is not a defense to any enforcement action taken pursuant to Section 44‑129‑40. Proof that is demanded, is shown, and reasonably is relied upon for the individual’s proof of age is a defense to violation of this chapter.

(2) The operator or registrant shall post a permanent, conspicuous, legible sign in the entrance to the tanning facility unobstructed by any barrier, equipment, or other item so that any prospective consumer entering the facility can easily view the sign which states: ‘An individual must be at least eighteen years of age to use the tanning equipment. It is a violation of South Carolina law for an individual under the age of eighteen years to use tanning equipment in this State.’

Section 44‑129‑40. A tanning facility registrant or operator of tanning equipment that violates a provision of this chapter is subject to a civil penalty assessed by the department in the amount of five hundred dollars. The department may deny, suspend, or revoke the tanning facility’s registration for repeated violations.

Section 44‑129‑50. The department may promulgate regulations to implement this chapter. The requirements of this section are in addition to the applicable requirements of Chapter 7, Title 13, and any applicable regulations promulgated pursuant to that chapter.”

SECTION 3. This act takes effect thirty days after approval by the Governor.

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