

Assembly Bill No. 2193

CHAPTER 758

An act to amend Sections 22706 and 22708 of the Business and Professions Code, relating to tanning facilities.

[Approved by Governor September 24, 2004. Filed with Secretary of State September 24, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2193, Nation. Tanning facilities.

Existing law, the Filante Tanning Facility Act, provides for regulation of tanning facilities by the Department of Consumer Affairs, and requires a tanning facility to provide a written warning to customers and to post certain warning signs in the facility. Existing law makes a first violation of the act an infraction, and subsequent violations a misdemeanor.

This bill would make a tanning facility that violates a provision of the act liable for a civil penalty not to exceed \$2,500 per day.

Existing law requires a person less than 14 years of age to be accompanied by his or her parent or guardian when using a tanning device.

This bill would instead prohibit a person less than 14 years of age from using a tanning device.

By expanding the scope of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares the following:

(a) The United States Food and Drug Administration (FDA) and numerous leading United States health care organizations estimate that approximately one million Americans each year will be stricken with skin cancer, a potentially deadly disease, and the most common of all types of cancers.



(b) Melanoma is more common than any nonskin cancer among women between 25 and 29 years old, and as of 2003, one in 70 Californians has a lifetime risk of developing melanoma. Nationally, one person dies of melanoma every hour.

(c) The FDA, joined by the National Institutes of Health (NIH), the United States Centers for Disease Control and Prevention (CDC), and numerous leading United States and international health care organizations, discourages the use of tanning beds and sunlamps, and has concluded that indoor tanning can be as harmful as outdoor tanning, and that perhaps more than one million people in the United States alone visit tanning salons each day on the average.

(d) The FDA and numerous leading United States and international health care organizations have expressed concerns that the consuming public generally does not know that indoor tanning devices, such as tanning beds and sunlamps, emit ultraviolet radiation, UVA and UVB, that is similar to and sometimes more powerful than the UV radiation emitted by the sun.

(e) The leading cause of skin cancers in California, including basal cell and squamous cell carcinomas and melanoma, is excessive exposure to UVA and UVB rays from both natural and artificial sources. The FDA has concluded that there are no “safe rays” insofar as both types of ultraviolet light cause skin cancer, damage to the eyes and the immune system, as well as wrinkling and other signs of premature skin aging.

(f) Tanning devices in salons, tanning parlors, spas, and similar settings that emit mostly UVA light are in no way less harmful alternatives to the sun’s rays, insofar as UVA rays penetrate deeper than UVB rays, causing damage to the underlying connective tissue as well as to the skin’s surface.

(g) Since there is currently no repair treatment available for reversing the brutal effects of UVA and UVB rays on the skin, effecting basic, minimally intrusive, public education to prevent such damage before it occurs is the best approach to maintaining the public health of the citizens of this state.

(h) It is in the public interest to exercise the state’s public education capabilities to warn the public of the risks of UVA radiation exposure by skin tanning units or devices, to endorse the findings released by the FDA warning Americans that the use of UVA tanning booths and sun beds pose potentially significant health risks to users, and to adopt legislation regarding UVA exposure to ensure the posting of warnings of these risks in commercial tanning salons, parlors, and spas.

SEC. 2. Section 22706 of the Business and Professions Code is amended to read:

22706. (a) A tanning facility shall:



(1) Have an operator present during operating hours who is sufficiently knowledgeable in the correct operation of the tanning devices used at the facility so that he or she is able to inform and assist each customer in the proper use of the tanning devices.

(2) Before each use of a tanning device, provide each customer with properly sanitized protective eyewear that protects the eye from ultraviolet radiation and allows adequate vision to maintain balance; and not allow a person to use a tanning device if that person does not use the protective eyewear.

(3) Show each customer how to use suitable physical aids, such as handrails and markings on the floor, to maintain proper exposure distance as recommended by the manufacturer.

(4) Use a timer that has an accuracy of plus or minus 10 percent of any selected timer interval.

(5) Limit each customer to the maximum exposure time as recommended by the manufacturer.

(6) Control the interior temperature of a tanning facility so that it does not exceed 100 degrees Fahrenheit.

(b) (1) Every person who uses a tanning facility shall sign a written statement acknowledging that he or she has read and understood the warnings before using the device; and agrees to use the protective eyewear that the tanning facility provides. The statement of acknowledgment shall be retained by the tanning facility until the end of the calendar year at which time each person who is a current customer of the facility shall be required to renew that acknowledgment.

(2) Whenever using a tanning device a person shall use the protective eyewear that the tanning facility provides.

(3) Before any person between 14 and 18 years of age uses a tanning device, he or she shall give the tanning facility a statement signed by his or her parent or legal guardian stating that the parent or legal guardian has read and understood the warnings given by the tanning facility, consents to the minor's use of a tanning device, and agrees that the minor will use the protective eyewear that the tanning facility provides.

(4) Persons under 14 years of age are prohibited from using a tanning device.

SEC. 3. Section 22708 of the Business and Professions Code is amended to read:

22708. (a) A first violation of this chapter is an infraction. Each day a first violation continues constitutes a separate infraction.

(b) Any violation of this chapter subsequent to a first violation is a misdemeanor. Each day a subsequent violation continues constitutes a separate misdemeanor.



(c) A tanning facility that has violated this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) per day in addition to any other penalty established by law.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

