

AMENDED IN ASSEMBLY AUGUST 30, 2011

AMENDED IN SENATE MARCH 22, 2011

SENATE BILL

No. 746

Introduced by Senator Lieu

February 18, 2011

An act to amend Section 22706 of, *and to add Section 2241.3 to*, the Business and Professions Code, relating to tanning facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 746, as amended, Lieu. Tanning facilities.

Existing law, the Filante Tanning Facility Act of 1988, provides for *the* regulation of tanning facilities by the Department of Consumer Affairs, and a violation of the act is a crime. Existing law prohibits persons under 14 years of age from using an ultraviolet tanning device and prohibits persons between 14 and 18 years of age from using that device without specified consent from a parent or legal guardian. *The act does not apply to a phototherapy device, as defined, used by or under the direct supervision of a qualified physician and surgeon.*

Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law authorizes a physician and surgeon to prescribe, dispense, furnish, or administer prescription drugs subject to specified requirements.

This bill would eliminate ~~that~~ *the* consent option regarding persons between 14 and 18 years of age described above and would prohibit persons under 18 years of age from using an ultraviolet tanning device. By expanding the scope of a crime, the bill would impose a state-mandated local program.

The bill would specify that nothing shall preclude a physician and surgeon from prescribing the use of a phototherapy device to a patient of any age.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 **SECTION 1.** *Section 2241.3 is added to the Business and*
2 *Professions Code, to read:*

3 2241.3. *Notwithstanding any other provision of law, nothing*
4 *shall preclude a physician and surgeon from prescribing the use*
5 *of a phototherapy device to a patient of any age. For purposes of*
6 *this section, the term “phototherapy device” shall have the same*
7 *meaning as in Section 22702.*

8 ~~**SECTION 1.**~~

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

11 22706. (a) A tanning facility shall:

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

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

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

25 (4) Use a timer on an ultraviolet tanning device that has an
26 accuracy of plus or minus 10 percent of any selected timer interval.

1 The timer shall also be remotely located so that customers cannot
2 set their own exposure time.

3 (5) Limit each customer using an ultraviolet tanning device to
4 the maximum exposure time as recommended by the manufacturer.

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

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

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

17 (3) Persons under 18 years of age are prohibited from using an
18 ultraviolet tanning device.

19 (4) Proof of age shall be satisfied with a driver's license or other
20 government issued identification containing the date of birth and
21 a photograph of the individual.

22 ~~SEC. 2.~~

23 *SEC. 3.* No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.

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