

**Department of Legislative Services**  
 Maryland General Assembly  
 2004 Session

**FISCAL AND POLICY NOTE**

Senate Bill 209 (Senator Munson)  
 Education, Health, and Environmental Affairs

**State Board of Cosmetologists - Tanning Facilities - Regulation**

This bill grants the State Board of Cosmetologists broad authority to regulate tanning facilities and tanning devices. The bill authorizes the board to promulgate regulations governing the conduct of owners and operators of tanning facilities, sanitation and safety of the facilities, maintenance and operation of tanning devices, and other regulations deemed necessary to protect the public health, safety, and welfare. The bill requires the board to set fees to cover the costs of inspections of tanning facilities.

**Fiscal Summary**

**State Effect:** General fund expenditures would increase by \$54,800 in FY 2005. Out-year expenditures reflect ongoing operational costs that are annualized and adjusted for inflation. General fund revenues would increase by at least \$175,500 beginning in FY 2006 due to inspection fees to regulate tanning facilities. Potential minimal increase in fine revenue.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
GF Revenue	\$0	\$175,500	\$175,500	\$175,500	\$175,500
GF Expenditure	54,800	109,800	132,600	135,200	138,100
Net Effect	(\$54,800)	\$65,700	\$42,900	\$40,300	\$37,400

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** Meaningful.

## Analysis

**Bill Summary:** This bill prohibits an individual younger than 18 from using a tanning device at a tanning facility unless the operator receives written permission from the individual's licensed physician and the individual's parent or guardian remains at the tanning facility while the individual uses the tanning device. The bill requires any individual using a tanning device at a tanning facility to show valid photo identification to the tanning facility operator prior to use. The bill provides that the board may impose civil penalties of up to \$100 for a first offense, up to \$250 for a second offense, and up to \$500 for a third or subsequent offense for violations of regulations of tanning devices and tanning salons. The bill also requires the board to pay all penalties to the State's general fund.

The bill does not require licensure of tanning salons, tanning devices, or owners and operators of tanning salons and devices.

**Current Law:** The State Board of Cosmetologists has no responsibility for regulating any tanning facility, whether free-standing or part of a licensed beauty salon, or any tanning device.

There is no prohibition in Maryland against allowing individuals younger than 18 to use tanning devices at tanning facilities. Currently, three states prohibit youths from accessing tanning facilities. The age limit is set at 13 in Texas, 14 in Illinois, and 16 in Wisconsin.

In Maryland, Montgomery County is the only jurisdiction that has any requirement related to tanning salons; owners and operators of tanning salons must obtain a license from the county before beginning operations.

**Background:** The Department of Labor, Licensing, and Regulation (DLLR) advises that the board claims no special knowledge of tanning salons and tanning devices. DLLR further advises that inspections would not begin until July 1, 2005, so that existing inspectors can gain the necessary education regarding tanning salons and tanning devices prior to performing inspections.

It is unknown how many customers of tanning facilities in Maryland are younger than 18. However, a study of high school students in Minnesota indicated that approximately 34% had used a tanning facility.

**State Revenues:** DLLR estimates there are approximately 1,500 tanning facilities in Maryland; it is assumed that half are in beauty salons and half are free-standing tanning

salons. DLLR estimates that an inspection fee of at least \$117 would cover the costs of performing the inspection of tanning devices. Assuming 1,500 tanning salons and beauty salons with tanning devices are inspected annually after July 1, 2005, general fund revenues could increase by at least \$175,500 beginning in fiscal 2006. Any impact depends on the total number of tanning salons and beauty salons with a tanning device and the actual inspection fee.

The bill is not expected to create a significant number of circumstances where civil penalties will be issued for violations of regulations of tanning facilities and devices. Accordingly, revenues generated by the penalty provisions of the bill are assumed to be minimal.

**State Expenditures:** General fund expenditures could increase by \$54,800 in fiscal 2005, which accounts for the bill's October 1, 2004 effective date. This estimate reflects the cost of hiring one full-time office secretary to manage additional paperwork and communications required by the bill. It includes the salary, fringe benefits, one-time start-up costs, and other operating expenses including modifications to licensing software, and communication with tanning facilities. DLLR assumes that existing cosmetology inspectors would handle a portion of the inspection requirements in the bill.

Salary and Fringe Benefits	\$26,600
Database Modifications	16,100
Operating Expenses	<u>12,100</u>
<b>Total FY 2005 State Expenditures</b>	<b>\$54,800</b>

Future year expenditures reflect: (1) the full salary with 4.6% annual increases and 3% employee turnover; (2) 1% annual increases in ongoing operating expenses; (3) a contractual employee to perform additional inspections; and (4) the estimated cost to remand hearings to the Office of Administrative Hearings (OAH).

Expenditures would increase for compliance activities, particularly investigating complaints from consumers, tanning salons, and beauty salons with tanning devices. However, any impact related to compliance cannot be reliably estimated at this time.

DLLR advises that the board's time is currently absorbed with inspection, compliance, and disciplinary activities for the board's existing 42,000 licensees. Accordingly, DLLR assumes that all hearings related to violations of regulations of tanning salons and beauty salons with tanning devices would be remanded to OAH. The cost of an OAH hearing in these instances is estimated to be \$4,000.

**Small Business Effect:** It is assumed that the majority of the approximately 1,500 tanning facilities in Maryland are small businesses. Tanning salons and beauty salons with tanning devices would be negatively impacted by annual inspections, annual inspection fees, and other costs to comply with board-mandated regulations.

To the extent that minors are no longer able to use tanning facilities due to the licensed physician's permission requirement and the requirement that a parent or guardian remain on-site during the minor's use of a tanning device, tanning salons and beauty salons with tanning devices could lose customers and possibly have to repay portions of contracts to use the facilities.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Labor, Licensing, and Regulation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 18, 2004  
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