

Senate Bill No. 746

Passed the Senate September 2, 2011 - Ayes: 24 Noes: 12 Abstain: 4

Passed the Assembly September 1, 2011 - Ayes: 49 Noes: 27 Abstain: 4

CHAPTER _____

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, 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 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.

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

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

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

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 an ultraviolet 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 an ultraviolet 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 on an ultraviolet tanning device that has an accuracy of plus or minus 10 percent of any selected timer interval. The timer shall also be remotely located so that customers cannot set their own exposure time.

(5) Limit each customer using an ultraviolet tanning device 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) Persons under 18 years of age are prohibited from using an ultraviolet tanning device.

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

SEC. 3. 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.

(Approved: September 10, 2011

By: Governor Jerry Brown)