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FISCAL IMPACT REPORT

ORIGINAL DATE 2/17/09
 LAST UPDATED 2/21/9

SPONSOR Garcia HB _____

SHORT TITLE Tanning Facility Safety Standards SB 513/aSPAC

ANALYST Chabot

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	\$0.1	\$0.1	Recurring	Current School Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$150.0	\$150.0	\$300.0	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
 Children, Youth and Families Department (CYFD)
 Department of Health (DOH)
 Medical Board (MB)
 New Mexico Health Policy Commission (HPC)
 Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of the SPAC Amendment

The Senate Public Affairs Committee amendment to SB 513 adds the end of line 20 "unless the individual's parent or legal guardian is present." This allows individuals under the age of 14 to use tanning equipment in a facility if the parent or legal guardian is with them.

Synopsis of Original Bill

Senate Bill 513, Tanning Facility Safety Standards, prohibits a tanning facility from allowing minors less than fourteen years of age from using any tanning equipment. It also prohibits minors 14 to 18 years of age from tanning in a facility without a signed warning and authorization form signed by the parent or legal guardian. DOH would have the power to fine tanning facility operators for violations with the fine being deposited in the current school fund. Stated fines are \$100 for the first offense and \$200 for all subsequent offenses. The Attorney General or county District Attorney can initiate court proceedings to enjoin the operation of any tanning facility being operated in violation of the provisions in the bill. An emancipated minor may be exempt from these requirements upon showing the minor's Certificate of Emancipation.

FISCAL IMPLICATIONS

If this bill is enacted, fines levied would be deposited in current school fund. The current school fund is defined in Article XII, Section 4 NMSA: "All forfeitures, unless otherwise provided by law, and all fines collected under general laws; the net proceeds of property that may come to the state by escheat; the rentals of all school lands and other lands granted to the state, the disposition of which is not otherwise provided for by the terms of the grant or by act of congress shall constitute the current school fund of the state." The fund is available for appropriation for public schools support.

The LFC assesses to perform this function, a minimum of 2 FTE would be required plus office space, supplies, equipment and transportation. A preliminary estimate is \$150 thousand would be required and this would initially come from the general fund. An assessment would need to be made of the number of tanning facilities statewide and how best to enforce the proposed statute. After that assessment, a fee structure for tanning facilities could be considered to pay for this oversight function.

SIGNIFICANT ISSUES

DOH reports indoor tanning with UV radiation lamps has been linked to melanoma (the most dangerous form of skin cancers, squamous cell carcinoma, and eye damage. New Mexico has the highest melanoma rates of any of the 48 contiguous states at 36.6 cases per 100,000 males.

DOH further states that 2.5 million teens use tanning salons annually, the majority being female adolescents. The Journal of the National Cancer Institute states "Adolescence and early adulthood appear to be among the most sensitive age periods for the effects of sunburn and tanning bed use and the development of melanoma in adulthood."

HPC provides similar information and reports that "at least 29 states and four counties regulate the use of tanning facilities by minors." It further states that the National Conference of State Legislatures reports that five states (Florida, Hawaii, Kansas, Oklahoma and Wyoming) have recently introduced legislation on tanning restrictions for minors.

CYFD reports the federal Food and Drug Administration states certain oral and topical medicines, such as antibiotics, birth control pills, benzoyl peroxide products, and cosmetics may increase skin and eye sensitivity to ultra violet radiation.

ADMINISTRATIVE IMPLICATIONS

DOH would need to promulgate rules to implement the statute including developing required forms, warning letters and authorization forms to levy fines identified in the proposed statute. Currently, the agency has no program to absorb this function and would have to establish an inspection function to comply with the proposed statute. AGO and district attorneys would have to develop procedures identifying when legal actions would be done for violations of the proposed statute.

OTHER SUBSTANTIVE ISSUES

DOH suggests “since tanning is a non-invasive cosmetic procedure it would seem appropriate to have the Board of Barbers and Cosmetologists provide the monitoring and regulation.”

RLD states “The Board of Barbers and Cosmetologists does not currently have the staff to either regulate this profession administratively or to provide inspection of facilities. If this function were required of the board, it would necessitate hiring at least 1 full time inspector and another staff member to perform related administrative work. Although there may be some overlap between the barber/cosmo profession and the tanning salon industry, it is limited. Only a small percentage of barbers/cosmos currently operate a tanning booth on the premises of their salon.”

POSSIBLE QUESTIONS

1. How many tanning facilities are there in New Mexico?
2. How many cases of minors using tanning facilities are estimated to occur annually in New Mexico?
3. What method of enforcement is envisioned?
4. Will local police departments be asked to assist in enforcement?
5. What recourse will be available to tanning facility owners if they desire to protest a cited violation and fine?

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