

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0464-01  
Bill No.: HB 67  
Subject: Health Care; Department of Health and Senior Services; Licenses-Professional  
Type: Original  
Date: April 14, 2011

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Bill Summary: This legislation establishes provisions regarding the licensure of tanning facilities by the Department of Health and Senior Services.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Other	\$0	(\$80,458)	\$80,458
Tanning Facility	\$0	\$0	\$50,217
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>(\$80,458)</b>	<b>\$130,675</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 10 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Tanning Facility	0 FTE	1 FTE	4 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>0 FTE</b>	<b>1 FTE</b>	<b>4 FTE</b>

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### **Sections 324.300, 324.303, 324.306, 324.309, 324.312, 324.315, 324.318, 324.321 & 324.324:**

Officials from the **Office of the State Courts Administrator, Department of Corrections, Missouri State Treasurer, Department of Revenue** and the **Office of Prosecution Services** each assume the proposal would have no fiscal impact on their respective agencies.

Officials from the **Office of Administration-Administrative Hearing Commission (AHC)** anticipates that this legislation will not significantly alter AHC's caseload. However, if other similar bills also pass, there will be fiscal impact. If there are more cases there could be a fiscal impact.

**Oversight** assumes the AHC could absorb the additional caseload that may result from this proposal within existing resources. Oversight assumes any significant increase in the workload of the AHC would be reflected in future budget request.

Officials from the **Office of the Attorney General (AGO)** assume the proposal would allow DHSS to promulgate rules for licensing tanning bed facilities. The AGO does not handle administrative actions within DHSS, although possibly could be involved in any appeals from such actions. AGO assumes any potential costs resulting from the proposal could be absorbed with existing resources.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

ASSUMPTION (continued)

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Office of the State Public Defender (SPD)** state for purposes of the proposal, the SPD cannot assume existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crimes regarding tanning facilities.

While the number of new cases may be too few or uncertain to request additional funding for this specific proposal, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all of the SPD cases.

**Oversight** assumes the SPD could absorb the additional caseload that may result from this proposal within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget request.

Officials from the **Department of Health and Senior Services (DHSS)** assume the proposed legislation requires DHSS to develop an inspection and licensing program for all tanning businesses within the state. DHSS would conduct all of the initial inspections, investigate complaints, perform compliance audits, and provide technical assistance and training. After the first year, DHSS would contract with local public health agencies (LPHAs) to conduct the annual renewal inspections.

According to Heartland Tanning, a distributor of tanning equipment, there were 3,000 Missouri tanning businesses in 2002. The Department assumes a three percent growth rate per year, resulting in approximately 4,151 tanning businesses in operation by 2013 when the licensing program would be implemented.

After the first year, DHSS would contract with LPHAs to conduct the annual renewal inspections. Based on the history of contracting with the LPHAs for other programs, the Department assumes that some of the LPHAs will not contract with us to do these inspections. It is estimated that approximately 300 facilities per year, after the first year, will need to be inspected by DHSS staff.

The Department estimates the need to hire eight additional staff in order to administer this program:

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ASSUMPTION (continued)

- One Environmental Public Health Specialist V (\$43,344; A28, Step G) would be needed to manage and oversee the program as well as supervise additional staff.
- Five Environmental Public Health Specialist IIIs (\$38,700 each; A25, Step G) would be needed to conduct the initial inspections, investigate complaints and do quality improvement evaluations on the LPHA inspections. These positions would also provide technical assistance and training to the LPHAs and industry. To provide the most efficient and effective method of timely inspections, one inspector will be located in each of the following areas: St. Louis, Independence, Jefferson City, Springfield, and Poplar Bluff. This is consistent with other inspection programs such as the child care sanitation inspections.
- One Health Program Representative III (\$37,296; A24, Step G) would be needed to administer the licenses and maintain the facility inventory.
- One Senior Office Support Assistant (\$24,576; A12, Step F) would be needed to perform administrative duties for the other seven staff.

Section 324.315.3: The Department assumes that approximately 300 facilities per year will not be inspected by the LPHAs. Therefore, LPHAs would be inspecting 3,851 (4,151 projected tanning facilities – 300) facilities. The LPHAs would be paid \$100 per inspection (this is comparable to similar services DHSS contracts from LPHAs) for a total of \$385,100 (3,851 x \$100). Since the Department will be conducting all initial inspections, this cost will not apply in FY 2013.

The Department's cost for administering the licensure program combined with the LPHA contracts is approximately \$946,240. Based on required staffing and other operational expenses, the estimated licensure fee charged to each tanning business for their annual license will be \$250. All fees collected will be deposited into the Tanning Facility Fund. Beginning in FY 2014, the fees collected through the Tanning Facility Fund will pay the program administration costs. DHSS estimates \$1,037,750 (\$250 x 4,151 facilities) in fees will be collected and deposited into the Tanning Facility Fund in FY 2014.

Section 324.315.3: States that no licensing activity or other statutory requirements will be implemented until expenditures and personnel are appropriated. It is assumed that funding will not be appropriated before the FY 2012 legislative session, therefore it is assumed the program would not become effective until FY 2013. Thus, the fiscal impact of this program would not begin until FY 2013, with the first year funded with General Revenue since the Department would not have any fee revenue initially to start the program. The Department has estimated the fiscal impact to be \$0 for FY 2012, a cost of (\$591,171) to GR in FY 2013, and net increase of \$91,150 to the Tanning Facility Fund in FY 2014.

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ASSUMPTION (continued)

**Oversight** has, for fiscal note purposes only, assumed the DHSS would need 1 FTE in FY12 for the purposes of writing rules and regulation. Oversight assumes the DHSS would need 4 FTE in FY13 for the purposes of implementing this legislation. Oversight assumes the funds of 1 FTE in FY12 will be transferred out of other funds and transferred into tanning facility fund. Oversight assumes in FY13 the funds for 1 FTE will be refunded back into the other funds from the tanning facility fund.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
<b>OTHER FUND</b>			
<u>Transfer-In</u> - Department of Health and Senior Services	\$0	\$0	\$80,458
<u>Transfer-Out</u> - Department of Health and Senior Services	<u>\$0</u>	<u>(\$80,458)</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON OTHER FUND</b>	<b><u>\$0</u></b>	<b><u>(\$80,458)</u></b>	<b><u>\$80,458</u></b>
<b>TANNING FACILITY FUND</b>			
<u>Income</u> - Department of Health and Senior Services			
Licensing Fees	\$0	\$0	\$1,037,750
<u>Transfer-In</u> - Department of Health and Senior Services	\$0	\$80,458	\$0
<u>Costs</u> - Department of Health and Senior Services			
Personal Service	\$0	(\$43,777)	(\$268,892)
Fringe Benefits	\$0	(\$22,913)	(\$140,738)
Equipment and Expense	\$0	(\$13,768)	(\$112,345)
Program Costs-Local Assistance	<u>\$0</u>	<u>\$0</u>	<u>(\$385,100)</u>
<u>Total Costs</u> - DHSS	<u>\$0</u>	<u>(\$80,458)</u>	<u>(\$907,075)</u>
FTE Change - DHSS	0 FTE	1 FTE	4 FTE
<u>Transfer-Out</u> - Department of Health and Senior Services	\$0	\$0	(\$80,458)
<b>ESTIMATED NET EFFECT ON TANNING FACILITY FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$50,217</u></b>
Estimated Net FTE Change for Tanning Facility Fund	0 FTE	1 FTE	4 FTE

<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Tanning facilities are generally considered to be small businesses. The proposed legislation would require tanning facilities to pay licensing fees estimated at \$250 per year, and to post warning signs. It is unknown if additional operator services will be required in any of these facilities, but the required oversight and instructive activities may necessitate additional staff for those businesses that do not currently provide these services.

FISCAL DESCRIPTION

**Sections 324.300, 324.303, 324.306, 324.309, 324.312, 324.315, 324.318, 324.321 & 324.324:**

The proposed legislation establishes provisions regarding the licensure of tanning facilities by the Department of Health and Senior Services. In its main provisions, the legislation:

- (1) Prohibits any person from operating a tanning facility without a license from the Department and requires all licenses to be conspicuously displayed in the facility;
- (2) Requires facilities to provide written warning statements to every customer requiring their signature prior to the use of any tanning device and before the renewal of a contract and to post signs warning of ultraviolet radiation and its long-term effects on the human body;
- (3) Requires facilities to have operators on duty who are knowledgeable in the correct operation of all tanning equipment on the premises, provide customers with eye protection, show customers how to use all physical aids within the facility, use accurate timers on all devices, maintain a control that allows for the manual termination of lamps, limit exposure to that recommended by the manufacturer, and control the facility's interior temperature so that it doesn't exceed 100 degrees Fahrenheit;
- (4) Requires all customers to sign a written statement that they have read and understand all warnings presented by the facility and agree to wear the protective eye wear before being allowed to use any device within the facility;

FISCAL DESCRIPTION (continued)

(5) Prohibits individuals younger than 16 years of age from using a tanning device. Before individuals younger than 18 years of age can use any device, his or her parent or guardian must go to the facility and sign a written statement acknowledging that he or she has read and understands all the warnings given by the facility and consents to the minor's use of a tanning device;

(6) Authorizes the Department director to establish rules regarding the issuance and renewal of licenses; standards of hygiene which must be maintained by facilities; and procedures to grant, deny, suspend, revoke, or reinstate licenses; and

(7) Creates the Tanning Facility Fund for the deposit of fees collected for the purpose of administering the provisions of the legislation.

Anyone violating a provision of the legislation will be guilty of a class C misdemeanor.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Attorney General  
Office of Administration-Administrative Hearing Commission  
Office of the State Courts Administrator  
Department of Corrections  
Department of Health and Senior Services  
Office of Prosecution Services  
Office of the Secretary of State  
Missouri State Treasurer  
Office of the State Public Defender  
Department of Revenue



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