

2013 HOUSE HUMAN SERVICES

HB 1188

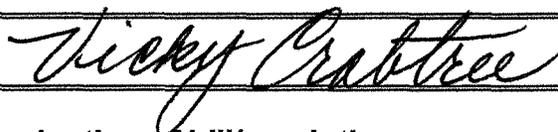
2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

HB 1188
January 21, 2013
Job #17446

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to regulation of tanning facilities.

Minutes:

Testimonies #1-7 attached

Chairman Weisz: Opened the hearing on HB 1188.

Rep. Dan Ruby: Representative from District 8 introduced and testified in support of the bill. (See Handout #1) I have talked to one of the agency who has done some enforcement and they said they wouldn't mind if it went away. It is too difficult to enforce. The requirement that you can't tan within 24 hours is not enforceable. They can buy packages from different facilities. They can tan several times a day. Does anyone regulate how long a person tans at the beach? I think this goes a little too far. I don't think this protects people. Unfortunately the person I wanted to testify on this bill couldn't make here today. I will hand out testimony from someone who is in the industry. Rep. Ruby read a testimony for Teresa Duchscherer. (See Testimony #2) You can buy your own tanning bed and tan as much as you want.

11:25 Rep. Porter: One area you didn't address is the language limiting people under 18 and under 14. With the total repeal so goes those protections for minors. Are you interested in keeping that language in place?

Rep. Ruby: I looked at that and I don't think kids at a certain age should tan. They are outside and tan and burn at the lake, beach and swimming pool. How are we enforcing it? If the committee decides to keep some notification in of the hazards, I would just ask that you make sure there is a way to that all of the entities that have; has somebody there to verify the regulation and the use equally. From this letter and others I have talked to it is not being done.

Rep. Mooney: Can we speak to the ill effects of tanning?

Rep. Ruby: I know some people have gotten e-mails on this and surprisingly I haven't gotten any. I'm not going to stand here and tell the medical benefits of tanning. Who are the e-mails coming from?

Rep. Mooney: From people who have had experiences and dermatologists.

Rep. Ruby: I'm sure dermatologist treat people who have problems and those burning from the sun. If they are treating them, has it reduced it? I haven't seen any data that the law we put in before has reduced it. Maybe he has some. Can they give us any idea how to equitably enforce it?

Rep. Mooney: Is the purpose of the bill more about the enforcement of it as opposed to repealing it? What I'm hearing is their concern with the unenforceability. Is that not the greater issue?

Rep. Ruby: They work together. Yes, the lack of ability to enforce how someone is going to use the existing tanning facilities and get around the laws we put in is the basis for the complete lack of ability for the law to do what it is intended to do. That is why the repeal seemed to be the appropriate avenue. Whatever we change in here we are not going to fix the problem. If there is no way to make sure we can enforce putting a notification of information at every place that tans then maybe that is all that is needed. That you could enforce because when you walk in you can see it.

Rep. Damschen: There are many laws some people obey and some don't. Would you recommend applying this solution of repealing to all of those then? Is that a good solution?

Rep. Ruby: If there is no effective way to enforce any of the provisions, I would say we should take a look at it. I think we should repeal it.

Rep. Kiefert: I received numerous e-mails from parents who have already buried loved ones at a young age. If you can guarantee the prolonged use of the tanning beds didn't cause skin cancer I'd be all for it. If we pass this we will be giving the kids a green light to tan as much as they want to because the government said so.

Rep. Ruby: I am not defending tanning. There is nothing in that statement that should those people that died from melanoma they got it from a tanning bed. They could have got it from exposure to the sun. Show me how we can enforce this.

Rep. Fehr: If we repeal the law do we expect any change?

Rep. Ruby: The affect this has had could be measured in the negative effect to businesses that closely followed the law. If there is any affect after this bill goes, then they would be able to retain their clients and in their situation where they monitor all of their customers and how much they tan and how much time they can be on the machines. The liability is on them for not following what this one does and the courts through legal action could probably be more effective in enforcing them to follow safe practices than this law has ever done.

Rep. Anderson: Do you know if skin cancer has been on the rise since the introduction of the tanning booth?

Rep. Ruby: I don't. Skin cancer seems to be going up. We get all these notices about our exposure to sunlight. I'm sure there are increase of injuries and burns from the beds because they don't use them properly.

Rep. Oversen: We can't regulate exposure to the sun or in-home tanning beds. Tanning beds can increase your risk for skin cancer. Are there no health inspectors that oversee tanning facilities? Can we look into doing that with the Health Dept.? Do we need to look at how we enforce it not in just repealing?

Rep. Ruby: Obviously I assume that if there is something the committee thought was important to keep in the law and change it in some way that is an option rather than repealing it. I understand that. Perhaps if we require the state to watch over this, we should be funding them properly to do it. I don't know if the Health Dept. has the resources to do this.

Rep. Mooney: Before you went to repeal, did you go to the Dept. of Health or local units to find out? Do they have an idea or thought on a process that might make more sense than currently exist?

Rep. Ruby: No I didn't. I brought it up at our meeting at the First District Health Unit out of spur of the moment and they said there were some issues with enforcement and consistency. They said we aren't going to support getting rid of it, but it wouldn't hurt their feelings if it went away.

Rep. Muscha: Is there no one from the Department of Health here? I have a couple of questions for them.

Chairman Weisz: Yes there is.

Rep. Kiefert: A Senator and dermatologist who brought this bill about said the number one cause of death of young females from the age of 18-30 is melanoma. It is skyrocketing and that is why they brought this bill to try and stop the use of it.

Rep. Ruby: It is still skyrocketing with the bill in place.

Krista Headland: Community Outreach Coordinator for Dept. of Health's Division of Cancer Prevention and Control provided information. (See Testimony #3)

Chairman Weisz: Anyone else here? This would be the time to get up and answer the questions.

Kenan Bullinger: With the Division of Food and Lodging with the ND Dept. of Health. The tanning laws were passed in 2007 and were blessed with the enforcement of the law. We were given at position to help enforce, but not given funding to pay for it. We did get some funding through the Appropriation Committee. We aren't the only regulatory jurisdiction overseeing the enforcement of the law. There are seven local health units as well. There are some provisions that are difficult to enforce. We feel we've done a good job of enforcing. The majority of the provisions have passed and the administrative rules that we

further promulgated to further define the law. The one thing that is difficult to enforce is limiting the amount of time or multiple times a person uses a tanning bed. Through education and the warning signs that are required to be posted we hope will make a difference. We do tanning inspections once per year. That's all we have the resources for.

Rep. Muscha: Do you announce the inspections or just show up?

Bullinger: On the bigger facilities we do unannounced inspections. We schedule the ones whose facilities are only open a few hours.

Rep. Mooney: If we can't stop the serial tanner, does this legislation acts as a positive deterrent?

Bullinger: It has positive affects with having the law.

Rep. Damschen: Is there any kind of informant besides the sign. Before people are sold the package, are they told they will be in violation of the law by tanning too many hours?

Bullinger: When a person signs up for a package they are given a lot of information on the risks. The one thing built into the law was parental consent for a minor. Many states have passed laws about tanning regulations around 35-36. Some have tried to eliminate tanning under 18, but have been defeated.

Rep. Silbernagel: Do you have any amendments to current legislation that would make your role more effective in the future.

Bullinger: I think the law has worked fine.

Rep. Kiefert: Could we require them to keep a log of who and when they came in?

Bullinger: It is a requirement now.

Rep. Fehr: Is education only the sign?

Bullinger: We offer the signs and the cancer society and cancer prevention in our department do a great job of educating the public on the hazards of indoor and outdoor tanning.

Rep. Fehr: If there is a benefit to the law how many years would it take before research would actually show a drop in the melanoma rates?

Bullinger: I do not know. It could take 20 years for melanoma to show up.

OPPOSITION:

Deb Knuth: The Governmental Relations Director for the Cancer Society. (Handed out three handouts. See handouts #4, 5 and 6

Courtney Koebele: Executive Director of the ND Medical Association opposed the bill.
(See Testimony #7)

Chairman Weisz closed the hearing on HB 1188.

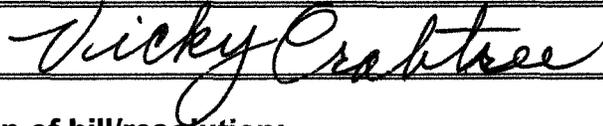
2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

HB 1188
January 28, 2013
Job # 17844

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to regulation of tanning facilities.

Minutes:

You may make reference to "attached testimony."

Chairman Weisz: Called the meeting to order on HB 1188.

Rep. Fehr: I move a Do Not Pass.

Rep. Mooney: Second.

Rep. Laning: Supported motion.

Rep. Muscha: Supported the motion.

Rep. Oversen: Supported the motion.

Rep. Damschen: Supported the motion.

Rep. Kiefert: Supported the motion.

Rep. Looyzen: Can we remove the 24 hour rule as it is hard to regulate.

Chairman Weisz: If this motion fails we can amend the bill to eliminate the 24 hour restriction or anything else the committee wants. We need to address the motion unless the parties want to withdraw their motion.

ROLL CALL VOTE: 8 y 5 n 0 absent

MOTION CARRIED

Bill Carrie: Rep. Oversen

FISCAL NOTE
Requested by Legislative Council
01/11/2013

Bill/Resolution No.: HB 1188

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$(11,820)		\$(11,820)
Expenditures			\$(9,277)	\$(11,820)	\$(9,277)	\$(11,820)
Appropriations			\$11,820	\$(11,820)	\$11,820	\$(11,820)

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties		\$(5,599)	\$(5,455)
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The Bill repeals the chapter of NDCC relating to the regulation of tanning facilities including the collection of a license fee.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Chapter 23-39 directs the Department of Health to issue permits to tanning facilities and to regulate the industry.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Passage of this bill would result in lost revenue for the Department and for the 7 Local Public Health Units that regulate the industry in their regions. Each tanning facility is licensed annually. Currently there are 65 facilities licensed by the Department each year. The license fee is \$90 for those facilities with fewer than 10 beds (62) and \$110 for facilities with more than 10 beds (3). The Department's appropriation currently contains \$11,820 in anticipated revenue. The Local Public Health Units anticipate collecting \$30,672 of revenue in the 2013 – 2015 biennium from licensing and \$30,949 in the 2015 – 2017 biennium.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Currently the Department of Health spends approximately 559 hours a biennium regulating the tanning industry and processing licenses at an average rate of \$37.74 per hour. Total expenses in the 2013 – 2015 biennium are \$21,097. The Local Public Health Units anticipate expenditures of \$25,073 in the 2013-2015 biennium for regulating the industry and processing licenses and \$25,494 in the 2015–2017 biennium. Passage of this bill will result in a net loss of revenue of \$5,599 in the 2013-2015 biennium and \$5,455 in the 2015-2017 biennium for the Local Public Health Units.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

If this bill passes the Department would not be able to eliminate the FTE as these duties are only a small portion of an FTE and there are other outstanding licensing issues that need to be addressed within the Division. However, the lost revenue would need to be replaced with general fund or increased fees.

Name: Brenda M. Weisz

Agency: Department of Health

Telephone: 328-4542

Date Prepared: 01/17/2013

Date: 1-28-13
 Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1188

House Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Lehr Seconded By Rep. Mooney

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ		✓	REP. MOONEY	✓	
VICE-CHAIRMAN HOFSTAD	✓		REP. MUSCHA	✓	
REP. ANDERSON		✓	REP. OVERSEN	✓	
REP. DAMSCHEN	✓				
REP. FEHR	✓				
REP. KIEFERT	✓				
REP. LANING		✓			
REP. LOOYSEN		✓			
REP. PORTER		✓			
REP. SILBERNAGEL	✓				

Total (Yes) 8 No 5

Absent 0

Floor Assignment Rep. Overesen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1188: Human Services Committee (Rep. Weisz, Chairman) recommends DO NOT PASS (8 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1188 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

HB 1188

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23-39-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Department" means the state department of health.
2. "Phototherapy device" means equipment that emits ultraviolet radiation and is used in treating disease.
3. "Tanning device" means equipment that emits electromagnetic radiation having wavelengths in the air between two hundred and four hundred nanometers and which is used for tanning of human skin and any equipment used with that equipment, including food and drug administration-approved protective eyewear, timers, and handrails. The term does not include a phototherapy device used by a physician.
4. "Tanning facility" means a place or business that provides individuals access to a tanning device.

Source. S.L. 2007, ch. 249, § 1.

23-39-02. Permit — Fee.

1. A person may not operate a tanning facility without a permit issued by the department under this chapter. The holder of a permit shall display the permit in a conspicuous place at the tanning facility for which the permit is issued. Permits issued under this chapter expire annually. An applicant for a permit shall submit an application for a permit to the department, on a form provided by the department, with a permit fee established by the department. The application must include the name and complete mailing address and street address of the tanning facility and any other information reasonably required by the department for the administration of this section.
2. The permit fee established by the department must be based on the cost of conducting routine and complaint inspections and enforcement actions and the cost of preparing and sending license renewals. Any fee collected under this section must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly. The department shall waive all or a portion of the permit fee for any tanning facility that is subject to local jurisdiction.
3. The department shall accept city or county enforcement of this chapter if the department determines the city or county requirements meet or exceed the requirements of this chapter and any rules adopted under this chapter.

Source. S.L. 2007, ch. 249, § 1.

23-39-02.1. License fees.

The fees established by the department must be based on the cost of conducting routine and complaint inspections, enforcement actions, and preparing and sending license renewals. License fees collected pursuant to this chapter must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly. The department shall waive all or a portion of the license fee for any tanning facility that is subject to local jurisdiction.

The department shall accept city or county enforcement of this chapter if the department determines the city or county requirements meet or exceed the requirements of this chapter and any rules adopted under this chapter.

Source. S.L. 2007, ch. 4, § 7.

23-39-03. Advertising — Notice — Warning sign — Tubes — Prohibited claims.

1. A tanning facility may not state in any advertising that the tanning facility holds a license or permit issued by the department to operate a tanning facility.

2. A tanning facility shall give to each of the tanning facility's customers written notice of the following:

a. Failure to wear the eye protection provided by the tanning facility may result in damage to the customer's eyes and may cause cataracts;

b. Overexposure to a tanning device causes burns;

c. Repeated exposure to a tanning device may cause premature aging of the skin and may cause skin cancer;

d. Abnormal skin sensitivity or burning of the skin while using a tanning device may be caused by:

(1) Certain foods;

(2) Certain cosmetics; and

(3) Certain medications, including tranquilizers, diuretics, antibiotics, high blood pressure medicines, and birth control pills; and

e. An individual who takes a drug should consult a physician before using a tanning

device.

3. A tanning facility shall display prominently a warning sign in each area where a tanning device is used. The warning sign must convey the following directions and information:

a. Follow instructions.

b. Avoid too frequent or too lengthy exposure. Like exposure to the sun, use of a tanning device can cause eye and skin injury and allergic reactions. Repeated exposure can cause chronic sun damage, which is characterized by wrinkling, dryness, fragility and bruising of the skin, and skin cancer.

c. Wear food and drug administration-approved protective eyewear.

d. Ultraviolet radiation from tanning devices will aggravate the effects of the sun, so do not sunbathe during the twenty-four hours immediately preceding or immediately following the use of a tanning device.

e. Medications and cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a tanning device if you are using medications, have a history of skin problems, or believe that you are especially sensitive to sunlight. Women who are pregnant or using birth control pills and who use a tanning device may develop discolored skin.

f. If your skin does not tan when exposed to the sun, it is unlikely that your skin will tan when exposed to this tanning device.

4. The tanning facility shall maintain a record of the date on which each fluorescent tube is replaced.

5. An owner or employee of a tanning facility may not claim, or distribute materials that claim, that using a tanning device is free of risk.

Source. S.L. 2007, ch. 249, § 1.

23-39-04. Liability.

A tanning facility's compliance with this chapter does not relieve the owner or any employee of the tanning facility from liability for injury sustained by a user of a tanning device.

Source. S.L. 2007, ch. 249, § 1.

23-39-05. Duties.

1. The owner of a tanning facility shall ensure that all of the following are fulfilled:

a. A customer under eighteen years of age may not be permitted to use the tanning facility until the customer provides the facility with written consent, in a form prescribed by the department, of a parent or legal guardian to use the tanning facility. The consent must indicate that the parent or legal guardian has read the warnings required by this chapter and that the customer agrees to wear food and drug administration-approved protective eyewear. The parent or legal guardian shall provide a notarized statement of consent or sign the consent form in the presence of the owner of the tanning facility or an employee responsible for the operation of the ultraviolet radiation device of the facility. The written consent form expires twelve months from the date signed. A customer under the age of fourteen years may not be allowed to utilize a tanning device at a tanning facility without a written order from a physician licensed in this state and without being accompanied by a parent or legal guardian for every use of the tanning facility.

b. During operating hours there is present at the tanning facility a trained operator who is able to inform customers about, and assist customers in, the proper use of tanning devices.

c. Each tanning bed is properly sanitized after each use.

d. Properly sanitized and securely fitting food and drug administration-approved protective eyewear that protects the wearer's eyes from ultraviolet radiation and allows enough vision to maintain balance is made available to the customer.

e. A customer is not allowed to use a tanning device unless the customer agrees to use food and drug administration-approved protective eyewear.

f. A customer is shown how to use such physical aids as handrails and markings on the floor to determine the proper distance from the tanning device.

g. A timing device that is accurate within ten percent is used.

h. Each tanning device is equipped with a mechanism that allows the customer to turn off the tanning device.

i. A customer is limited to the maximum exposure time recommended by the manufacturer.

j. A customer is not allowed to use a tanning device more than once every twenty-four hours.

k. The interior temperature of the tanning facility does not exceed one hundred degrees Fahrenheit.

l. The statements under subdivision a of subsection 2 are retained by the tanning facility for the lesser of three years or until the customer signs a new statement.

2. A user of a tanning facility shall do all of the following:

a. Immediately before the customer's first use of a tanning facility in a year, sign a statement acknowledging that the customer has read and understands the notice under subsection 2 of section 23-39-03 and the warning sign under subsection 3 of section 23-39-03 and specifying that the customer agrees to use food and drug administration-approved protective eyewear.

b. Use food and drug administration-approved protective eyewear at all times while using a tanning device.

Source. S.L. 2007, ch. 249, § 1.

23-39-06. Injury reports.

If a customer of a tanning facility reports a sunburn injury to that facility resulting from the use of its tanning device, the owner shall provide the customer with written information on how to report the alleged injury to the state department of health. If a health care provider treats a patient for a sunburn injury and determines, in the exercise of professional judgment, that the injury occurred as a result of using a tanning device at a tanning facility, the health care provider shall report the circumstances of the injury to the state department of health. A health care provider making or not making a report in good faith pursuant to this section is immune from liability for making or not making a report.

Source. S.L. 2007, ch. 249, § 1.

23-39-07. Enforcement — Rules — Penalty.

The department shall enforce this chapter. The state health council shall adopt rules necessary to implement this chapter. The department may deny issuance of a permit to an applicant or suspend or revoke any permit issued under this chapter if the applicant or permitholder, or an employee of the applicant or permitholder, violates this chapter or any rule adopted to implement this chapter. Violation of this chapter or any rule adopted to implement this chapter is a class B misdemeanor.

Source. S.L. 2007, ch. 249, § 1.

Cross-References. Penalty for class B misdemeanor, see N.D.C.C. § 12.1-32-01.

2

Ruby, Dan J.

From: teresa duchscherer <tjdookie@yahoo.com>
Sent: Sunday, January 20, 2013 11:18 PM
To: Ruby, Dan J.
Subject: Tanning Regulation Bill: 24 hour restriction

Dear Committee,

I would like to address some serious concerns I have regarding the 24 hour tanning regulation. When we were first addressed with this change to our current tanning regulations we were advised it referred to 24 hours as in a full day by our local health department, but were then later informed it was to be within an actual 24 hour period. We have computer programs that are set up to regulate the hours between a client's use of our equipment so we programmed them in for the 24 hrs and informed all our clients of the update.

To give you a bit of background on our tanning facility, we are a Smart Tan affiliated salon, which means we take the highest measures to inform our clients on preventative burning methods and responsible tanning procedures. Unlike most salons we are strict about the amount of time our clients are allowed to start out tanning and inform them on the different types of beds we carry and follow all manufactures regulations on equipment. Some beds can only be used every 48 hours according to the attached regulations. We follow all safety measures and have built a reputation of a professional and reputable salon.

When we first enforced the 24 hour regulations most of our clients were in disbelief that this was actually a regulation and stated that they did not believe such because other salons in our state do not enforce it. I began to notice a lot of newer clients had stated they were leaving our tanning facility and tanning elsewhere in town that they had tanned at because they do not have a 24 hour regulation. I decided to research this a bit further and with a few phone calls was received with laughter as they stated that they do not have 24 hour regulations on their tanning beds in their facilities.

One concern I have is that many of the rules that are stated in the tanning regulation bill are blatantly not enforced. I had brought it to the health departments attention that a facility in town was not following the 24 hour regulation and when I asked how they were keeping track of the clients history so that they knew it had been 24 hours between their tanning time, it was stated they had it written down. I do not find this as an accurate or adequate way of logging the history as it can be easily changed or revamped. Tanners are also suppose to check in and have an attendant start their tanning time for them to prevent over-exposure but there are many facilities that still use self serve coin operated units. Work out centers have tanning beds available for clients to use without signing any consent form or an attendant to set time or regulate use on their beds.

The biggest concern I have with the 24 hour regulation on tanning is the effect it has had with our client retention. Clients will now buy smaller tanning packages with us and at another local salon so they do not have to follow the regulation. This I have to openly say I do not understand how this regulation can be regulated in an effective manner. How can you track an individual if they are tanning at multiple facilities? I do not believe any tanning facility should allow a tanner to tan more than once in a single day, but am frustrating that it is taking a toll on the facility I manage while I faithfully abide by the regulations. I feel that facilities need to all follow these regulations and the fact that they are not appropriately enforced or inspected would lend to why they do not feel they need to follow such regulations. We have noticed a client decline mainly due to the fact that they can attend other facilities that do not enforce this regulation and others listed in the bill. We have reported this to the health department, but have been received in a less than attentive manner and later to find the salons were still not enforcing it. I feel this part of the bill needs to be readdressed as it is almost impossible to restrict an individuals exposure when they tan at different locations regardless of the regulation. I feel if it is going to be strictly enforced it will need to be followed up more closely in all facilities offering tanning equipment. To be appropriately enforced all salons should be required to keep a similar method in logging their clients visits for an accurate account of attendance not written documentation. If it is felt unfair because certain facilities cannot provide this type of method to keep an accurate account of tanning history, then we need a better solution to

provide this type of regulation be fairly enforced. The fact that by following this regulation has shown a decline in attendance in the facility I manage do to the fact clients choose to split their time between more than one facility so as to not have to be restricted by the regulation needs to be addressed. Why have a regulation that affects a local business because it is too easy for customers to find ways around it that aren't illegal and not abide it?

Sincerely,
Teresa Duchscherer
General Manager
Caribbean Color Tanning

#3

Testimony
House Human Services Committee
House Bill 1188
Monday, January 21, 2013
North Dakota Department of Health

Good morning, Chairman Weisz and members of the House Human Services Committee, my name is Krista Headland and I am the Community Outreach Coordinator for the Department of Health's Division of Cancer Prevention and Control. I am here to provide you with information related to the link between the use of indoor tanning beds and skin cancer.

The World Health Organization's International Agency for Research on Cancer announced in 2009 that it had moved UV tanning beds to its highest cancer risk category - "carcinogenic to humans." Prior to the move, the group had classified sun lamp and tanning bed use as "probably carcinogenic to humans."

Recent research published in 2010 from the University of Minnesota definitively links the use of indoor tanning beds to increased risk of melanoma, the deadliest form of skin cancer. The study involving over 2,000 Minnesotans is the largest of its kind. It found that people who use any type of tanning bed for any amount of time are 75 percent more likely to develop melanoma. The study also found that the more frequently tanning beds are used, the more likely the person will be to develop melanoma.

According to the North Dakota Statewide Cancer Registry, melanoma incidence rates nearly tripled from 2000-2009 in our state. Younger women between the ages of 20 to 44 have experienced the largest increases. A 2011 population-based study from Mayo Clinic in Rochester, Minnesota, confirms a dramatic rise in skin cancer, especially in women younger than 40. The lead investigator, a Mayo Clinic dermatologist, stated, "The results of this study emphasize the importance of active interventions to decrease risk factors for skin cancer and, in particular, to continue to alert young women that indoor tanning has carcinogenic effects that increase the risk of melanoma."

The Youth Risk Behavior Surveillance System Survey, conducted in high schools across the nation including North Dakota, reports that 29 percent of white high school girls and 32 percent of girls in the 12th grade said they use indoor tanning beds. Other surveys indicate that white women in the Midwest have the highest tanning bed utilization rates of any region in the country.

The North Dakota Cancer Control Plan, which is carried out by the Department of Health's Division of Cancer Prevention and Control, includes objectives designed to reduce UV exposure to prevent skin cancer among North Dakotans. One of our current projects is a "no tanning" pledge drive for North Dakota high school students, to educate them on the dangers of indoor tanning and discourage them from using indoor tanning beds before prom and other events. We have schools all across the state that will be implementing the "no tanning" pledge drive over the next couple of months.

I appreciate the opportunity to provide you with this information. I would be happy to answer any questions at this time. Thank you.



Indoor Tanning

Skin cancer is the most common cancer in the United States with more than 2 million cases being diagnosed annually.¹ In 2012, an estimated 12,190 deaths will occur as a result of skin cancer, 9,180 of which will be from melanoma alone.² Exposure to ultraviolet (UV) radiation, either from sunlight or indoor tanning devices, is the most important, avoidable, known risk factor for skin cancer.³

The Facts About Indoor Tanning

- Exposure to UV radiation, from sunlight or tanning beds, is associated with the development of skin cancer.⁴
- Melanoma incidence rates have been increasing for at least 30 years. Since 2004, incidence rates among whites have been increasing by almost 3% per year in both men and women.⁵
- Over the last 20 years, the number of teens and young adults reporting use of tanning beds increased from 1% to 27%.⁶
- First exposure to tanning beds before the age of 35 years is associated with a 75% increased risk of melanoma.⁸
- Using a tanning bed, even once, increases the risk for squamous cell carcinoma by 67% and basal cell carcinoma by 29%. The risk is higher when the tanning bed use begins before age 25.⁹

In 2009, the International Agency for Research on Cancer (IARC) increased the classification of UV-emitting indoor tanning devices to the highest level of cancer risk – Group 1 – “carcinogenic to humans.”⁷ This classification places tanning devices in the same category as other known carcinogens such as tobacco, benzene, asbestos, and many other substances.

The Tanning Bed Industry

Despite the evidence, there is a general misconception among adults and adolescents about the potential harms of using indoor tanning devices.

- The indoor tanning industry promotes the notion that a “base tan” obtained by using indoor tanning devices will have a protective effect from excessive sun exposure. However, the presence of a tan, in any form, signifies DNA damage to the skin,¹⁰ which is linked to premature aging of the skin and skin cancer.
- Indoor tanning proponents cite the link between UV exposure and vitamin D synthesis to support the health benefits of indoor tanning. However, UVB rays are the primary source of vitamin D synthesis, while most tanning devices primarily emit UVA, which penetrates the skin more deeply than UVB¹¹ and is relatively ineffective in stimulating vitamin D synthesis.¹² In addition, vitamin D can be obtained through many different foods.
- The indoor tanning industry promotes tanning beds as a safer alternative to sunbathing outdoors because most tanning beds can be controlled and moderated by skin type and operate on a timer. However, tanning beds deliver UVA radiation 5-15 times higher than what is delivered by the summer midday sun.¹³ Furthermore, multiple studies demonstrate that indoor tanners receive sunburns or suffer other skin damage after indoor tanning sessions.^{14,15,16}

In 2010, the Indoor Tanning Association settled out of court with the Federal Trade Commission (FTC) regarding false health and safety claims about indoor tanning, such as those listed above. "The messages promoted by the indoor tanning industry fly in the face of scientific evidence," said David C. Vladeck, Director of the FTC's Bureau of Consumer Protection. "The industry needs to do a better job of communicating the risks of tanning to consumers."

- ¹American Cancer Society. *Cancer Facts and Figures 2012*. Atlanta: American Cancer Society; 2012.
- ²American Cancer Society. (2012). "Cancer Facts and Figures: 2012." Atlanta: American Cancer Society; 2012.
- ³Lim, HW, et al. (2011). "Adverse effects of ultraviolet radiation from the use of indoor tanning equipment: Time to ban the tan." *Journal of the American Academy of Dermatology*, 2011; 64:893-902.
- ⁴National Toxicology Program. (2011). "12th Report on Carcinogens." National Institute of Environmental Health Sciences, part of the National Institutes of Health. Accessed on June 6, 2012 at <http://ntp.niehs.nih.gov/index.cfm?objectid=72016262-BDB7-CEBA-FA60E922B18C2540>
- ⁵American Cancer Society. *Cancer Facts and Figures 2012*. Atlanta: American Cancer Society; 2012.
- ⁶Robinson, JK., et al. (2008). "Indoor Tanning Knowledge, Attitudes, and Beliefs Among Young Adults from 1988-2007." *Archives of Dermatology*, 2008; 144:4.
- ⁷Ghissassi, et al. (2009). "A Review of Human Carcinogens – Part D: Radiation." *The Lancet – Oncology*; August 2009, Vol 10.
- ⁸Dore, J-F and Chignol, M-C. (2012). "Tanning salons and skin cancer." *Photochemical and Photobiological Sciences* 2012; 11:30.
- ⁹Wehner, et al. (2012). "Indoor Tanning and non-melanoma skin cancer: systematic review and meta-analysis." *British Medical Journal*. October 2012
- ¹⁰Brady, et al. (2012). "Public Health and the Tanning Bed Controversy." *Journal of Clinical Oncology*; May 2012, Vol 30, No 14.
- ¹¹Skin Cancer Foundation. (2012). "Understanding UVA and UVB." Accessed on June 5, 2012 at <http://www.skincancer.org/prevention/uva-and-uvb/understanding-uva-and-uvb>
- ¹²Woo, DK and Eide, M.J. (2010). "Tanning beds, skin cancer, and vitamin D: An examination of the scientific evidence and public health implications." *Dermatological Theory* 2010, Jan-Feb (1) 61-71.
- ¹³Dore, J-F and Chigno, M-C. (2012). "Tanning salons and cancer." *Photochemical and Photobiological Sciences*, 2012; 11:30.
- ¹⁴Cokkinides V, et al (2009). "Indoor tanning use among adolescents in the US, 1998 to 2004". *Cancer* 2009;115:190-8.
- ¹⁵Boldeman C, et al. (1996). "Sunbed use in relation to phenotype, erythema, sunscreen use and skin diseases. A questionnaire survey among Swedish adolescents." *Journal of Dermatology* 1996;135:712-6.
- ¹⁶Boldeman C, et al. (2001). "Tanning habits and sunburn in a Swedish population age 13-50 years". *European Journal of Cancer* 2001;37:2441-8.



Adolescents and Indoor Tanning

#5

The incidence of melanoma in the United States is increasing rapidly in children and young adults.^{1,2} Melanoma is now the second most common form of cancer for individuals aged 15-29 years and the most common form of cancer for young adults aged 25-29 years.³

The Facts

Exposure to UV radiation through sunlight or tanning beds, is the primary risk factor for skin cancer.⁴ Usually appearing in adulthood, skin cancer is often caused by UV exposure and sunburns that began as early as childhood.⁵

- Adolescents, or individuals under the age of 18, are particularly at risk to the damages associated with UV radiation and overexposure as their skin is not fully developed⁶ and their skin cells are dividing and changing more rapidly than those of adults.⁷
- Indoor tanning use before the age of 35 years increases melanoma risk by 75%.⁸
- The risk of developing melanoma increases with the number of sunburns an individual receives throughout all periods of life.⁹
- Using a tanning bed, even once, increases the risk for squamous cell carcinoma by 67% and basal cell carcinoma by 29%. The risk is higher when the tanning bed use begins before age 25.¹⁰
- Multiple studies demonstrate that indoor tanners receive sunburns or suffer other skin damage after indoor tanning sessions.^{11,12,13}

Over the last 20 years, the number of teens and young adults reporting use of tanning beds increased from 1% to 27%.²²

In 2009, the International Agency for Research on Cancer (IARC) increased the classification of UV-emitting indoor tanning devices to the highest level of cancer risk – Group 1 – “carcinogenic to humans.”¹⁴ This classification places tanning devices in the same category as other known carcinogens such as tobacco, benzene, asbestos, and many other substances. However, despite the risk, adolescents continue to tan indoors.

Tanning Bed Use Among Adolescents

- Of the 30 million individuals who tan indoors every year, 2.3 million are adolescents.¹⁵
- Results from the 2011 Youth Risk Behavior Survey (YRBS) demonstrate that 13.3% of high school students had used an indoor tanning device, such as a sunlamp, sunbed or tanning booth one or more times during the 12 months before the survey.¹⁶
- The 2011 YRBS also revealed that indoor tanning incidence was significantly higher in female adolescents (20.9%) than in their male counterparts (6.2%).¹⁷
- In a 2011 nationwide survey by the American Academy of Dermatology, a vast majority (86%) of adolescent and young adult respondents who tan indoors reported knowing that tanning bed usage is associated with skin cancer — yet still report having used an indoor tanning bed in the last year.¹⁸

Adolescents aged 16-17 were **twice** as likely to tan indoors as adolescents aged 14-15.²⁰

Certain factors, many of which can be addressed with educational and policy-level interventions, are associated with a significantly higher prevalence of indoor tanning among adolescents. A 2011 study published in the American Journal of Public Health (AJPH), focused on adolescents aged 14-17 living in the 100 largest US cities revealed several factors were significantly associated with increased indoor tanning behavior among adolescents. Adolescents were much more likely to tan indoors if they¹⁹:

- Believed people with a tan look more attractive (80% more likely)
- Felt that their parents allowed them to use indoor tanning (80% more likely)
- Had a parent who used indoor tanning (70% more likely)
- Noticed advertisements for indoor tanning (70% more likely)
- Had a parent who believed people with a tan are more attractive (50% more likely)
- Lived within two miles of at least one indoor tanning facility (40% more likely)

Addressing the Problem

According to the 2011 AJPB study, adolescents were less likely to tan indoors if their state had a law addressing minors' access to tanning facilities.²¹

Two states, California (SB 746 -2011) and Vermont (H 157 – 2011), have passed legislation banning tanning bed usage for minors under the age of 18. Several other states have introduced, or are in the process of introducing, similar measures, and almost 33 states currently regulate the use of tanning facilities by adolescents.

Several national and international organizations have issued reports on the adverse health effects associated with indoor tanning devices, with most recommending the introduction of indoor tanning bans for minors under the age of 18. These organizations include the American Cancer Society, the World Health Organization (WHO), the International Commission of Non-ionizing Radiation Protection, the Centers for Disease Control and Prevention (CDC), the National Toxicology Program (US), the National Radiological Protection Board (UK), the National Health and Medical Research Council (Australia), and EUROSIN.

- ¹ Lange, J, et al. (2007). "Melanoma in Children and Teenagers: An Analysis of Patients from the National Cancer Database." *Journal of Clinical Oncology*, April 2007; 25:11.
- ² Weir, et al. (2011) "Melanoma in adolescents and young adults (ages 15-39 years): United States, 1999-2006." *Journal of the American Academy of Dermatology*. November 2011; 65:S38-S49.
- ³ Cancer Epidemiology in Older Adolescents & Young Adults. SEER AYA Monograph Pages 53-57. 2007.
- ⁴ Hoerster, et al. (2007). "The Influence of Parents and Peers on Adolescent Indoor Tanning Behavior: Findings from a Multi-City Sample." *Journal of the American Academy of Dermatology*; December 2007, 57:6
- ⁵ National Institutes of Health – US National Library of Medicine. (2011). "Sunburn: Medline-Plus Medical Encyclopedia." Accessed on June 12, 2012 at <http://www.nlm.nih.gov/medlineplus/ency/article/003227.htm>
- ⁶ Yoo, Jeong-Ju and Kim, Hye-Young. (2012). "Adolescent's body-tanning behaviours: influences of gender, body mass index, sociocultural attitudes towards appearance and body satisfaction." *International Journal of Consumer Studies*; 2012; 26:360-366.
- ⁷ Skin Cancer Foundation. (2012). "Quick Facts About Teen Tanning." Accessed on June 8, 2012 at <http://www.skincancer.org/prevention/tanning/quick-facts-about-teen-tanning>
- ⁸ Mayer, et al. (2011). "Adolescent's Use of Indoor Tanning: A Large-Scale Evaluation of Psychosocial, Environmental, and Policy-Level Correlates." *American Journal of Public Health*. May 2011; 101:5.
- ⁹ Dennis, L, et al. (2008). "Sunburns and risk of cutaneous melanoma, does age matter: A comprehensive meta-analysis." *Annals of Epidemiology*, August 2008; 18:8.
- ¹⁰ Wehner, et al. (2012). "Indoor Tanning and non-melanoma skin cancer: systematic review and meta-analysis." *British Medical Journal*. October 2012.
- ¹¹ Cokkinides V, et al (2009). "Indoor tanning use among adolescents in the US, 1998 to 2004". *Cancer* 2009;115:190-8.
- ¹² Boldeman C, et al. (1996). "Sunbed use in relation to phenotype, erythema, sunscreen use and skin diseases. A questionnaire survey among Swedish adolescents." *Journal of Dermatology* 1996;135:712-6.
- ¹³ Boldeman C, et al. (2001). "Tanning habits and sunburn in a Swedish population age 13-50 years". *European Journal of Cancer* 2001;37:2441-8.
- ¹⁴ Ghissassi, et al. (2009). "A Review of Human Carcinogens – Part D: Radiation." *The Lancet – Oncology*; August 2009, Vol 10.
- ¹⁵ Levine, JA., Sorace, M., Spencer, J., et al (2005). "The indoor UV tanning industry: A review of skin cancer risk, health benefit claims, and regulation." *Journal of the American Academy of Dermatology*; 2005, 53: 1038-1044.
- ¹⁶ Centers for Disease Control and Prevention. (2012) "Youth Risk Behavior Surveillance – United States, 2011". *MMWR* 2012;61:4
- ¹⁷ Centers for Disease Control and Prevention. (2012) "Youth Risk Behavior Surveillance – United States, 2011". *MMWR* 2012;61:4
- ¹⁸ American Academy of Dermatology. (2011). "New survey finds tanning salons are not warning teens and young women about the dangers of tanning beds." Accessed on June 8, 2012 at <http://www.aad.org/stories-and-news/news-releases/new-survey-finds-tanning-salons-are-not-warning-teens-and-young-women-about-the-dangers-of-tanning-beds>
- ¹⁹ Mayer, et al. (2011). "Adolescent's Use of Indoor-Tanning: A Large-Scale Evaluation of Psychosocial, Environmental, and Policy-Level Correlates." *American Journal of Public Health*, May 2011; 101:5.
- ²⁰ Hoerster, BA, et al. (2007). "The Influence of Parents and Peers on Adolescent Indoor Tanning Behavior: Findings from a Multi-City Sample." *Journal of the American Academy of Dermatology*, December 2007; 57:6.
- ²¹ Mayer, et al. (2011). "Adolescent's Use of Indoor-Tanning: A Large-Scale Evaluation of Psychosocial, Environmental, and Policy-Level Correlates." *American Journal of Public Health*, May 2011; 101:5
- ²² Robinson, JK., et al. (2008). "Indoor Tanning Knowledge, Attitudes, and Beliefs Among Young Adults from 1988-2007." *Archives of Dermatology*, 2008; 144:4.



Common Misconceptions about Tanning Bed Use

Debunking the Industry's Myths

#16

Indoor Tanning Industry: *"The relationship between UV radiation and skin cancer is not straight-forward and questions still exist as to how UV radiation interacts with the skin."*

Fact: Significant amounts of research link UV radiation to an increased risk for skin cancer. The International Agency for Research on Cancer (IARC) reaffirmed the carcinogenicity of UV radiation by examining 19 separate informative studies, all of which documented that using a sunbed, even once, was positively associated with melanoma.¹ Similar studies have shown increased risk for other skin cancers (basal and squamous cell carcinomas) that resulted from using an indoor tanning bed as little as one time.²

Several other major studies further document the link between artificial UV tanning and melanoma, including a survey and two case-control studies in the U.S., a case-control study in Australia, the prospective US Nurse's Health Study, and the confirmation of previous results of the Norwegian-Swedish cohort study.

Indoor Tanning Industry: *"While associative survey-studies suggest a correlation between UV radiation from indoor tanning and melanoma, no direct experimental evidence exists to show a causative connection. Even American Academy of Dermatology spokesperson Dr. James Spencer admits, "We don't have direct experimental evidence" connecting indoor tanning and melanoma."*

Fact: Simply, it is unethical to knowingly expose human subjects to identified carcinogens, such as UV radiation, even for the purpose of obtaining direct experimental evidence. As such, many studies seeking information on the effects of exposures to known harms use a case-control design.

A case-control design compares two groups of people: those with the disease or condition under study (cases) and a very similar group of people who do not have the disease or condition (controls).

Researchers then study the medical and lifestyle histories of the people in each group to learn what factors may be associated with the disease or condition.³ Therefore, in a hypothetical case-control study designed to examine the effects of artificial UV radiation on human subjects, 'cases' would be individuals who tan indoors while 'controls' would be similar individuals who do not.

Case-control studies that use large sample sizes and attempt to control for a wide-range of variables are among the strongest and most reputable. The studies most frequently cited to demonstrate the association between indoor tanning and the development of melanoma use sample sizes up to 100,000 people or more. These studies all demonstrate a causative effect of UV radiation on the development of skin cancer.

In order to further examine the effects of known harms, researchers frequently substitute animals, such as mice, for human subjects. These studies are organized experiments, producing results in a controlled

¹ Ghissassi, et al. (2009). "A Review of Human Carcinogens – Part D: Radiation." The Lancet – Oncology; August 2009, Vol 10.

² Wehner, et al. (2012). "Indoor Tanning and non-melanoma skin cancer: systematic review and meta-analysis." British Medical Journal. October 2012

³ National Cancer Institute. (2012) "Definition of case-control study." Accessed on June 11, 2012 at <http://www.cancer.gov/dictionary?cdrid=348989>

environment in which variables are limited. Under this format, multiple studies on animals demonstrate the association between artificial UV radiation and the documented harms related to UV exposure, specifically skin cancer and immunosuppression and pre-mature aging of the skin.^{4,5,6,7}

Indoor Tanning Industry: *“Professional indoor tanning facilities are regulated and educate their patrons about the potential risks of UV overexposure. Consumers are required to read and sign consent forms that include warnings about potential eye damage, photoaging and skin cancer. Warning labels are found on every tanning device and almost always in other general areas. Professional tanning facilities require parental consent for teenagers who tan even though most states don't require this measure.”*

Fact: Although research on compliance with various indoor tanning regulations is limited, several studies suggest low compliance with posting regulations and appropriate warning labels.^{8,9,10} For instance, in 2010, researchers in New York City assessing tanning facilities for compliance with state and federal regulations found that more than one-third, or 35%, of tanning machines observed did not have any warning signs posted.¹¹ One year prior, in 2009, a large telephone survey of 3,647 indoor tanning facilities in 116 U.S. cities revealed that, only 11% of all tanning establishments followed the Food and Drug Administration's recommendation that first-time tanners limit their exposure to three tanning sessions in the first week. In the same study, an alarming 71% of facilities told the undercover callers, who posed as fair-skinned, 15-year-old girls, they could tan seven days a week. Additionally, larger tanning facilities, or those with a greater number of tanning beds, are significantly less likely to follow the FDA frequency recommendations.¹²

In an informal study by the US House of Representatives Committee on Energy and Commerce – Minority Staff, investigators employed methods similar to the 2009 study to determine level of compliance and informative transparency. Of the 300 facilities, 90% stated that indoor tanning did not pose a health risk, 51% denied indoor tanning would increase a fair-skinned teenager's risk of developing skin cancer, and 78% claimed indoor tanning would actually be beneficial to the health of a fair-skinned teenager.¹³

⁴ Roberts, L. and Beasley, D. (1997). “Sunscreen Lotions Prevent Ultraviolet Radiation-Induced Suppression of Antitumor Immune Responses.” *International Journal of Cancer*, 1997; 71

⁵ Beasley, DG, et al. (1998). “Commercial sunscreen lotions prevent ultraviolet radiation-inducing depletion of Langerhans cells in Skh-1 and C3H mice.” *Photodermatology, Photoimmunology, and Photomedicine*, 1998; 14:3-4

⁶ Ananthaswamy, H, et al. (1999). “Inhibition of Solar Simulator-Induced p53 Mutations and Protection Against Skin Cancer Development in Mice by Sunscreens.” *Journal of Investigative Dermatology*, 1999; 112.

⁷ Fournier, A. (2000). “Improved Protection Against Solar-Simulated Radiation-Induced Immunosuppression by a Sunscreen with Enhanced Ultraviolet A Protection.” *Journal of Investigative Dermatology*, April 2000; 114:4.

⁸ Heilig, et al. (2005). “A case for informed consent? Indoor UV tanning facility operator's provision of health risks information (United States).” *Cancer Causes Control*, 2005; 16:5.

⁹ Mayer, JA. (2008). “Enforcement of state indoor tanning laws in the United States.” *Preventing Chronic Disease*, 2008; 5:4.

¹⁰ Hester, EJ. (2005). “Compliance with federal and state legislation by indoor tanning facilities in San Diego.” *Journal of American Academy of Dermatology*, 2005; 141:8.

¹¹ Brouse, et al. (2011). “Warning Signs Observed in Tanning Salons in New York City: Implications for Skin Cancer Prevention.” *Preventing Chronic Disease*, 2011; 8:4.

¹² Pichon, L., et al. (2009). “Youth Access to Artificial UV Radiation Exposure.” *Archives of Dermatology*, Sept 2009; 145:9.

¹³ US House of Representatives Committee on Energy and Commerce – Minority Staff. (2012). “False and Misleading Health Information Provided to Teens by the Indoor Tanning Industry – Investigative Report Prepared for Rep. Henry A Waxman and Rep. Diana DeGette.” Accessed on June 12, 2012 at

<http://democrats.energycommerce.house.gov/sites/default/files/documents/Tanning%20Investigation%20Report%202.1.12.pdf>

Indoor Tanning Industry: *"Tanning beds are a safer alternative to sunbathing outdoors because most tanning beds can be controlled and moderated by skin type and operate on a timer or via the control of a tanning bed operator."*

Fact: Tanning beds deliver UVA radiation 5-15 times higher than what is delivered by the summer midday sun.¹⁴ Furthermore, multiple studies demonstrate that indoor tanners receive sunburns or suffer other skin damage after indoor tanning sessions.^{15,16,17}

Indoor Tanning Industry: *"Melanoma is more common in people who work indoors than in those who work outdoors, and those who work both indoors and outdoors get the fewest melanomas. Therefore, the relationship between melanoma and sunlight is not clear-cut. If it were, outside workers would have higher incidence of melanoma than those who work inside."*

Fact: According to the Centers for Disease Control and Prevention, different patterns of sun exposure are associated with different types of skin cancer.¹⁸ Continuous, chronic sun exposure, such as that observed among outdoor workers, is associated with squamous cell carcinoma.¹⁹ Intermittent exposure, such as recreational exposure such as that observed among indoor tanners, is associated with melanoma and basal cell carcinoma.^{20,21} Additionally, intermittent exposure is more likely to occur in concentrated bursts to skin that is more sun-sensitive, especially the stomach, chest, and back, than chronically sun-exposed skin.²² This is just one explanation as to why incidence of melanoma is higher among people who work indoors.

Sunburn has typically been used as one indicator of high intermittent exposure to UV radiation, the form of sun exposure most strongly related to melanoma risk.²³ Additionally, the risk of developing melanoma increases with the number of sunburns an individual receives during all life-periods²⁴, highlighting a cause for concern related to intermittent, concentrated UV exposure.

Indoor Tanning Industry: *"Indoor tanning supports the production of vitamin D which has a beneficial effect on human health. Furthermore, 77 percent of Americans are considered vitamin D deficient according to*

¹⁴ Dore, J-F and Chigno, M-C. (2012). "Tanning salons and cancer." Photochemical and Photobiological Sciences, 2012; 11:30.

¹⁵ Cokkinides V, et al (2009). "Indoor tanning use among adolescents in the US, 1998 to 2004". Cancer 2009;115:190-8.

¹⁶ Boldeman C, et al. (1996). "Sunbed use in relation to phenotype, erythema, sunscreen use and skin diseases. A questionnaire survey among Swedish adolescents." Journal of Dermatology 1996;135:712-6.

¹⁷ Boldeman C, et al. (2001). "Tanning habits and sunburn in a Swedish population age 13-50 years". European Journal of Cancer 2001;37:2441-8.

¹⁸ Centers for Disease Control and Prevention (CDC). (2012). "Sunburn and Sun Protective Behaviors Among Adults Aged 18-29 Years – United States, 2000-2010." Morbidity and Mortality Weekly Report, May 11, 2012; 61:8.

¹⁹ Karagas, MR., et al. (2006). "Keratinocyte carcinomas (basal and squamous cell carcinomas of the skin)." Cancer Epidemiology and Prevention, Third Edition. New York, NY: Oxford University Press; 2006; 1230-50.

²⁰ Green, A., et al. (2011). "Reduced melanoma after regular sunscreen use: Randomized trial follow-up." Journal of Clinical Oncology, 2011; 29.

²¹ Dennis LK., et al. (2008). "Sunburns and risk of cutaneous melanoma, does age matter: a comprehensive meta-analysis." Annals of Epidemiology, 2008 Aug; 18(8):614-627

²² Nelemans, P., (1993). "Effect of Intermittent Exposure to Sunlight on Melanoma Risk Among Indoor Workers and Sun-Sensitive Individuals." Environmental Health Perspective, 1993; 101.

²³ Linos, E. et al. (2009). "Increasing burden of melanoma in the United States." Journal of Investigative Dermatology, 2009; 129.

²⁴ Dennis, L., et al. (2008). "Sunburns and risk of cutaneous melanoma, does age matter: A comprehensive meta-analysis." Annals of Epidemiology, August 2008; 18:8.

government data, and overzealous sun avoidance is the only plausible explanation for the 50 percent increase in that figure in the past 15 years.”

Fact: While sunlight exposure is a source of vitamin D production for humans,²⁵ it is not the only source. Vitamin D can be found naturally in tuna, salmon, egg yolks, sardines, Swiss cheese, pork, mushrooms, and beef liver and has been added to fortified cereals, milk, yogurt and margarine.²⁶ Additionally, vitamin D supplements are available to support adequate dietary vitamin D intake.²⁷

From UV radiation, the main source of vitamin D production is exposure to ultraviolet B (UVB).²⁸ Most commercial tanning devices primarily emit ultraviolet A (UVA), which is relatively ineffective in stimulating vitamin D synthesis and has been linked to premature aging of the skin and skin cancer.²⁹

Indoor Tanning Industry: *A “base tan” obtained by using indoor tanning devices has a protective effect from excessive sun exposure.”*

Fact: The presence of a tan, in any form, signifies DNA damage to the skin³⁰ and evidence from multiple studies simply does not support a protective effect of the use of indoor tanning beds against damage to the skin from subsequent sun exposure.³¹

²⁵ Ginde, A, et al. (2009). “Demographic Differences and Trends of Vitamin D Insufficiency in the US Population, 1988-2004.” *Archives of Internal Medicine*, March 2009; 169:6.

²⁶ National Institutes of Health – Office of Dietary Supplements. (2011). “Vitamin D – Health Professional Fact Sheet.” Accessed on June 12, 2012 at <http://ods.od.nih.gov/factsheets/vitamind-HealthProfessional/>

²⁷ National Institutes of Health – Office of Dietary Supplements. (2011). “Vitamin D – Health Professional Fact Sheet.” Accessed on June 12, 2012 at <http://ods.od.nih.gov/factsheets/vitamind-HealthProfessional/>

²⁸ Bonevski, B. et al. (2012). “Prescribing sunshine: A cross-sectional survey of 500 Australian general practitioners; practices and attitudes about vitamin D.” *International Journal of Cancer*, 2012; 130.

²⁹ Woo, DK and Eide, M.J. (2010). “Tanning beds, skin cancer, and vitamin D: An examination of the scientific evidence and public health implications.” *Dermatological Theory* 2010, Jan-Feb (1) 61-71.

³⁰ Brady, et al. (2012). “Public Health and the Tanning Bed Controversy.” *Journal of Clinical Oncology*; May 2012, Vol 30, No 14.

³¹ Dore, J-F and Cignol, M-C. (2012). “Tanning salons and skin cancer.” *Photochemical and Photobiological Sciences*, 2012; 11:30.



**North Dakota Health Human Services Committee
HB 1188
January 21, 2013**

Thank you Chairman Weisz and members of the Health Human Services Committee for the opportunity to provide testimony in opposition to HB 1188. My name is Courtney Koebele. I am here representing the North Dakota Medical Association and the American Academy of Dermatology Association.

Today's discussion on HB 1188 to repeal existing law that protects minors from indoor tanning by requiring parental written consent for minors under the age of 18 years old and a physician's order and accompaniment by a parent at each visit for minors under 14 is very timely in light of recent scientific developments that have added to our understanding of the harmful effects of UV radiation from indoor tanning beds.

The causal relationship between UV radiation from tanning beds and the development of skin cancer is based on data from numerous scientific research studies. **And the science is clear – if you use indoor tanning beds, your risk of developing skin cancer significantly increases.** The tanning industry consistently attempts to discredit the large body of scientific evidence available on this topic. It's important to note that several newer studies reconfirm the link between use of indoor tanning beds and the development of skin cancer and have controlled for other factors that can increase one's individual risk of developing this disease.

A study published online in December 2011 found indoor tanners have a 69 percent increased risk of developing the most common form of skin cancer, basal cell carcinoma, even if a person only used a tanning bed once in their lifetime.

More alarming, risk was even higher for those who began indoor tanning prior to age 16. When it comes to the deadliest form of skin cancer, melanoma, research shows a person who has used tanning beds for more than 50 hours is two and a half to three times more likely to develop this form of cancer than a person who has never tanned indoors.

Melanoma is the most common form of cancer for young adults 25-29 years old; and the second most common form of cancer for adolescents and young adults 15-29 years old. Research has demonstrated a rise in incidence of melanoma in young women particularly on their trunk – an area of the body that is not likely to be exposed in day-to-day outdoor activities.

For all of these reasons, no amount of UV exposure from tanning beds is safe. There is no such thing as a safe tan. By definition a tan is evidence of skin damage.

The tanning industry advocates will argue that one of the most important risk factors in developing skin cancer is sunburn. They will also tell you they do not allow their patrons to burn. This is false. There are several accounts in medical journals of severe cases of burns resulting from use of tanning beds. In addition, even in the absence of a burn, the evidence is clear, if tanning has occurred, DNA damage of the skin has already begun.

National rates of indoor tanning rates for 14 year-old girls is 8.5%, for 15 year old girls it is 13.6%, for 16 year old girls it is 20.9% and for 17 year-old girls it is 26.8%. The tanning industry consistently targets teenage girls in their print and online advertisements and the rate of indoor tanning among adolescent girls is significantly higher than the rate among adolescent boys. A growing body of scientific research has determined that this phenomenon likely explains the recent rise in melanoma incidence among young US women; currently women under the age of 39 have a higher probability of developing melanoma than any other cancer except breast cancer.

According to a survey conducted in 2011 by the American Academy of Dermatology Association, 43 percent of indoor tanners reported that they have never been warned about the dangers of tanning beds by tanning salon

employees. When asked if they were aware of any warning labels on tanning beds, 30 percent of indoor tanners said no. By age group, younger tanning bed users (ages 14 to 17) were more likely to be unaware of any warning labels on tanning beds than older tanners (ages 18 to 22).

Despite the fact that the United States Department of Health and Human Services and the World Health Organization's International Agency for Research on Cancer have classified UV radiation from tanning devices as carcinogenic and in the same category as cigarettes, a number of younger tanning bed users still think tanning beds are safer than the sun. Specifically, younger tanning bed users aged 14 to 17 are more than twice as likely to think tanning beds are safer than the sun than older tanners age 18 to 22 and more than three times as likely to think that tanning beds do not cause skin cancer.

Last year, the US Energy and Commerce Committee minority staff released an investigative report detailing the false and misleading health information provided to teens by the indoor tanning industry. The report had five main findings:

1. 90 percent of tanning salons denied the known risks of indoor tanning. Salons described the suggestion of a link between indoor tanning and skin cancer as a myth, a rumor or hype.
2. Four out of five salons falsely claimed that indoor tanning is beneficial to a young person's health.
3. Salons used many approaches to downplay the health risks of indoor tanning, including blaming the use of sunscreen as the reason for rising rates of skin cancer in the US.
4. Tanning salons fail to follow the US Food and Drug Administration's recommendations on tanning frequency of no more than three visits in the first week and a minimum of 24 hours between tanning sessions.
5. Tanning salons target teenage girls in their print and online advertisements.

Strong laws are needed to provide oversight of this industry and protect our state's youth. Repealing this law will harm the citizens of North Dakota.

The concept of prohibiting use of carcinogenic or dangerous products is not new. Governments often enact laws in the interest of educating the public and trying to

preserve the health and wellbeing of its citizens, especially those such as minors who are easily influenced.

Our Government restricts minors' use of tobacco and alcohol for this reason. We do not have parental consent permission for the use of cigarettes or alcohol for teenagers. For something that is classified as dangerous a substance as cigarettes, why do we make an exception for ultraviolet radiation exposure from indoor tanning?

In closing, I would like to remind you why restrictions on indoor tanning are so important. If we wish to have an impact on the future incidence of skin cancer and melanoma, we have to reduce the amount of cumulative exposure our youth have to UV radiation – particularly intentional exposure via commercial indoor tanning.

The medical community needs the support of the Committee and the North Dakota legislature to retain existing protections of minors from the use of indoor tanning devices and to help educate teens and parents alike about its dangers.

On behalf of the American Academy of Dermatology Association and North Dakota Medical Association, I urge you to oppose HB 1188.

Thank you for your consideration of this important issue.



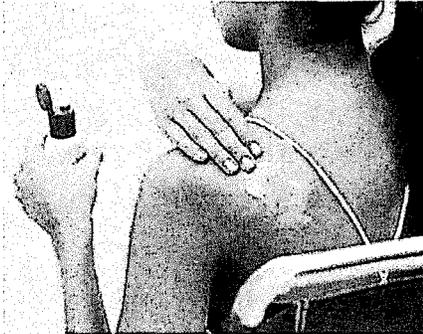
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Indoor Tanning Restrictions for Minors - A State-by-State Comparison



While exposure to ultraviolet (UV) light is fairly consistent across age groups, research indicates that high risk exposure happens more commonly in teens and that blistering sunburns and overexposure during childhood greatly increase the chances of developing skin cancer later in life. Because sun (and UV) exposure in childhood and the teenage years can be so damaging, policymakers in some states are regulating minors' use of tanning devices (like tanning beds). Currently California bans the use of tanning beds for all minors under 18, and at least 31 states regulate the use of tanning facilities by minors. Some counties also regulate the use of tanning devices, including Howard County, Maryland, which is the [first local jurisdiction to ban indoor tanning](#) for all minors under age 18.

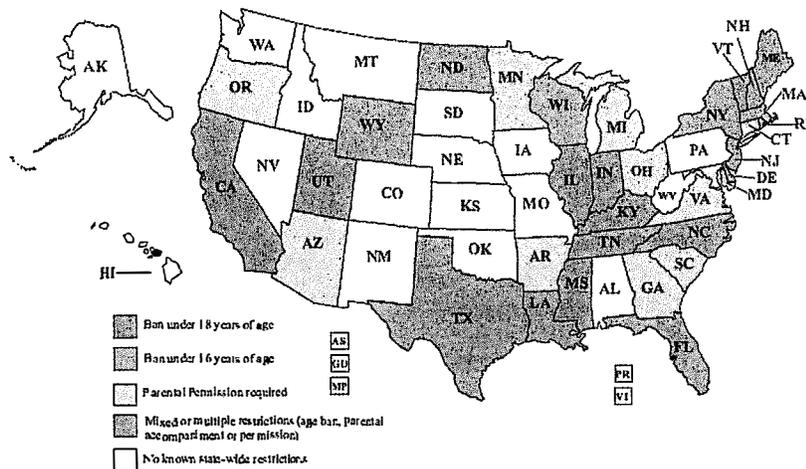
Recent recommendations from the International Agency for Research on Cancer, a subsidiary of the World Health Organization, state, "Policymakers should consider enacting measures, such as prohibiting minors and discouraging young adults from using indoor tanning facilities, to protect the general population from possible additional risk for melanoma." [Click here](#) to view the report and recommendations from the International Agency for Research on Cancer.

There are two categories of skin cancer, Melanoma and nonmelanoma. Melanoma is treatable if caught early, but because it is likely to spread to other parts of the body, it is very dangerous and potentially fatal. In 2012, the American Cancer Society (ACS) estimates that there will be 76,250 new cases of melanoma in the United States and 9,180 deaths from the disease. Risk factors for Melanoma include sun exposure and sunburn, blistering sunburns during childhood or teenage years, fair skin, freckles, moles and a family history of melanoma. ACS recommends avoiding sunlight between 10 am and 4 pm (daylight time) when the sun's rays are strongest, avoiding tanning devices and sun lamps, using and re-applying sunscreen when exposed to UV rays, covering skin with clothing, and wearing hats and sunglasses.

Sun exposure causes most nonmelanoma skin cancers. ACS estimates that over a million people are diagnosed with a nonmelanoma cancer annually. Nonmelanoma skin cancer rarely spreads to other parts of the body and, if detected early, is treatable and has excellent survival rates. The National Cancer Institute reports that non-melanoma skin cancer is the most common type of cancer for all people. Just under half of Americans who live to age 65 will have this cancer at least once.

[Tanning Restrictions For Minors--State Laws](#) | [2011-2012 Introduced Legislation](#) | [2010 Introduced Legislation](#) | [2009 Introduced Legislation](#) | [Outside Resources](#)
[LegisBrief: Reducing Skin Cancer Risks](#)

State Indoor Tanning Laws for Minors (published July 2012)



Indoor Tanning

People of all ages use tanning beds, booths and sunlamps year-round. Young, non-Hispanic white women are the most common users. Frequent exposure to ultraviolet (UV) rays for individuals under the age of 35 increases the risk of developing melanoma—the most aggressive and deadliest form of skin cancer—by 75 percent, according to the Centers for Disease Control and Prevention.

The American Cancer Society estimates 76,000 new cases and nearly 9,200 deaths from melanoma in 2012. Risks to developing the deadly skin cancer include:

- › Age—burns or blisters from UV rays in childhood and adolescence;
- › Fair skin—with freckles and moles; and
- › Genetics—a family history of the disease.