

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2017 Legislative Session

Reference No.: CB-40-2017

Draft No.: 1

Committee: HEALTH, EDUCATION AND HUMAN SERVICES

Date: 6/8/2017

Action: FAV

REPORT:

Committee Vote: Favorable, 5-0 (In favor: Council Members Toles, Taveras, Franklin, Harrison and Turner).

Staff summarized the legislation and provided referral comments. CB-40-2017 provides language that seeks to protect minors under the age of 18 from the dangers of tanning facilities in the County. The proposed law will restrict access to indoor tanning facilities for minors, under the age of 18, and will require appropriate identification to be presented, to verify an individual's age, prior to the allowance of access to an indoor tanning device.

Signs are also required to be posted regarding the unlawful use of indoor tanning devices by minors, and the potential results indoor tanning devices may cause. Violators of the proposed restrictions and requirements may be issued civil monetary penalties on individuals who are found in violation of \$250.00 for the first offense, \$500 for the second offense and each subsequent violation is \$1,000. Use and occupancy permits shall be revoked for any tanning facility that violates the proposed restrictions more than three (3) times in a three (3) year period. The Health Department may inspect any tanning facility whenever it is open to the public for business to determine if it meets the requirements.

The Bill sponsor provided statistics on youth utilization of tanning devices. The Bill sponsor further indicated that Howard and Montgomery Counties have adopted similar legislation. Howard County allows for a doctor's prescription for a minor to utilize tanning devices. In addition, 18 states including Delaware have adopted legislation prohibiting minors from utilizing tanning devices. Currently, a minor under the age of 18 can utilize a tanning device with written permission of a parent. The Bill sponsor felt that the parent consent policy can be manipulated.

The Office of Audits and Investigations determine that enactment of CB-40-2017 may have a positive fiscal impact on the county in the amount of any civil fines collected as a result of a violation.

The County Executive supports CB-40-2017 and the Office of Law finds it to be in proper legislative form.

Public testimony was provided in support of CB-40-2017: the American Academy of Dermatology Association, MD Dermatologist Society, and the American Cancer Society and American.

Bruce Bereano, attorney representing the Maryland Tanning Association, spoke in opposition to the enactment of CB-40-2017. Mr. Bereano indicated that this legislation is not valid since it is preempted by State legislation. In disagreeing with Mr. Bereano's assessment, the Legislative Officer clarified that the state legislation at issue, Section 20-106 of the Health General Article of the Annotated Code of Maryland, specifically stated in its editor's note that the legislation "may not be construed to preempt a county or municipal government from enacting and enforcing more stringent measures to regulate the use of tanning devices by minors." The Legislative Officer further emphasize that the editor's notes relating to the legislation provides proof of legislative intent.

The Office of Law concurred with the Legislative Officer's legal assessment.