



# Ohio Legislative Service Commission

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## Final Analysis

Kelly Bomba

### **Sub. H.B. 131**

130th General Assembly  
(As Passed by the General Assembly)

**Reps.** Johnson and Stinziano, Antonio, Beck, Boyd, Dovilla, Driehaus, Duffey, Fedor, Grossman, C. Hagan, R. Hagan, Letson, Ramos, Ruhl, Slaby, Stebelton, Wachtmann, Bishoff, Anielski, Baker, Butler, Carney, Kunze, Mallory, Milkovich, O'Brien, Rogers, Sprague, Terhar

**Sens.** Kearney, Hite, Lehner, Seitz, Turner

**Effective date:** June 23, 2015

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## **ACT SUMMARY**

- Establishes consent requirements, which vary depending on the age of the individual, that must be satisfied before a tanning facility operator or employee may allow an individual to use sun lamp tanning services.
- Requires a tanning facility operator or employee to follow procedures established by the Board of Cosmetology to determine the age of an individual seeking to use the facility's sun lamp tanning services.
- Requires the Board to impose a fine on a tanning facility operator or employee for certain violations.
- Requires that the Board regulate tanning facilities that use tanning chemicals, such as spray-on tans, and facilities that use visible light for cosmetic purposes.

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## **CONTENT AND OPERATION**

### **Consent requirements for fluorescent sun lamp tanning**

The act establishes consent requirements that must be satisfied, beginning June 23, 2015, before an individual uses fluorescent sun lamp tanning services at a tanning facility. It prohibits a tanning facility operator or employee from allowing an individual to use those services without first satisfying the consent requirements, which vary

depending on the age of the individual.<sup>1</sup> The act also repeals a provision requiring the State Board of Cosmetology to adopt rules requiring a consumer under age 18 to obtain written consent from the individual's parent or legal guardian prior to receiving tanning services.<sup>2</sup>

### **Adults**

For an individual age 18 or older, the act specifies that the consent requirements are satisfied if the individual signs the consent form developed by the Board (see "**Consent form**," below). The consent is valid indefinitely.<sup>3</sup>

### **Children who are 16 or 17**

For an individual who is at least age 16 but less than age 18, the act specifies that the consent requirements are satisfied if the individual's parent or legal guardian signs the consent form in the presence of the tanning facility operator or employee. The consent is valid for 90 days, and the operator or employee may not allow the individual to use the sun lamp services for more than 45 sessions during that 90-day period. A session may not last longer than the maximum safe time of exposure specified by the Board.<sup>4</sup>

### **Children under 16**

For an individual under age 16, the act specifies that the consent requirements are satisfied if the individual's parent or legal guardian does both of the following:

(1) Signs the consent form in the presence of a tanning facility operator or employee before each sun lamp tanning session;

(2) Is present at the tanning facility for the duration of each sun lamp tanning session.<sup>5</sup>

### **Consent form**

The act requires the Board to develop the consent form that is to be used to satisfy the consent requirements. The form must describe the health effects of sun lamp

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<sup>1</sup> R.C. 4713.50(B) and Section 3.

<sup>2</sup> R.C. 4713.08(A)(17)(f) (repealed).

<sup>3</sup> R.C. 4713.50(B)(1).

<sup>4</sup> R.C. 4713.50(B)(2).

<sup>5</sup> R.C. 4713.50(B)(3).



radiation, including the possible relationship of the radiation to skin cancer. In developing the form, the Board is to consult with the Department of Health, dermatologists, and tanning facility operators. The Board must make the form available on its Internet website.<sup>6</sup>

### **Electronic signature**

The act specifies that the consent form may be signed electronically.<sup>7</sup>

### **Age verification**

To determine which consent requirements must be satisfied, the act requires a tanning facility operator or employee to make reasonable efforts to determine the age of an individual seeking to use sun lamp tanning services. In a corresponding change, the act requires the Board to adopt rules establishing procedures a tanning facility operator must follow in making reasonable efforts to determine the age of an individual seeking to use sun lamp tanning services.<sup>8</sup>

### **Penalties**

For a first-time offender, the act requires the Board to fine a tanning facility operator or employee \$500 for (1) failure to make reasonable efforts to determine the age of an individual seeking to use the facility's sun lamp tanning services or (2) allowing an individual under age 18 to use the sun lamp tanning services without satisfying the consent requirements. For subsequent offenders, the act permits the Board to determine the appropriate punishment in accordance with its existing authority, which could include a fine, suspension or revocation of a license or permit the Board issues, or requiring the license or permit holder to take corrective action courses.<sup>9</sup>

### **Regulation of other tanning facilities**

The act provides for the regulation of additional tanning facilities beginning June 23, 2015. Under continuing law, a tanning facility is defined as a room or booth that houses equipment or beds used for tanning human skin by the use of fluorescent sun lamps using ultraviolet or other artificial radiation. The act expands that definition to also include premises that contain a room or booth with:

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<sup>6</sup> R.C. 4713.51.

<sup>7</sup> R.C. 4713.50(C).

<sup>8</sup> R.C. 4713.50(A) and 4713.08(A)(17)(g).

<sup>9</sup> R.C. 4713.64(D).



(1) Equipment that applies chemicals to human skin to create the appearance of being suntanned, including chemical applications commonly referred to as spray-on, mist-on, or sunless tans; or

(2) Equipment or beds that use visible light for cosmetic purposes.<sup>10</sup>

Under the act, the Board is to regulate these tanning facilities in much the same manner as it regulates fluorescent sun lamp tanning facilities. For example, the operator of one of these tanning facilities also must obtain a permit from the Board, renew the permit biennially, and pay the required fees established by Board rule (\$65 for an initial permit; \$50 for biennial renewal).<sup>11</sup> Failure to do so is a fourth degree misdemeanor on a first offense and a third degree misdemeanor on subsequent offenses.<sup>12</sup> Such a tanning facility also becomes subject to standards, adopted by the Board in rules, for installing and operating a tanning facility in a manner that ensures the health and safety of consumers.<sup>13</sup> Finally, the Board is authorized to inspect facilities and to discipline operators for failing to comply with any requirement found in statute or rule.<sup>14</sup>

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## HISTORY

ACTION	DATE
Introduced	04-17-13
Reported, H. Health & Aging	05-28-14
Passed House (92-4)	06-04-14
Reported, S. Commerce & Labor	12-10-14
Rereported, S. Rules	12-11-14
Passed Senate (26-4)	12-11-14
House concurred in Senate amendments (86-3)	12-17-14

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<sup>10</sup> R.C. 4713.01.

<sup>11</sup> R.C. 4713.08(A)(16) and R.C. 4713.48, not in the act; Ohio Administrative Code 4713-19-03.

<sup>12</sup> R.C. 4713.14(Q) and 4713.99, not in the act.

<sup>13</sup> R.C. 4713.08(A)(17).

<sup>14</sup> R.C. 4713.06 and 4713.48, not in the act, and R.C. 4713.64.

