

**TANNING FACILITIES TAX AND MELANOMA
CANCER RESEARCH FUND**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melvin R. Brown

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Revenue and Taxation portion of the Utah Code to provide for a tax on tanning facilities and the creation of a Melanoma Cancer Research Fund.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ imposes a tax on a tanning facility equal to 10% of amounts paid to, or charged by, the tanning facility for an admission fee or a user fee;
- ▶ enacts provisions relating to the payment of the tax imposed by this bill;
- ▶ creates the Melanoma Cancer Research Fund and provides that the Department of Health shall use the fund to award grants to organizations for research related to melanoma cancer; and
- ▶ enacts provisions related to record keeping and inspection, collection of the tax imposed by this bill, and tax penalties.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 ENACTS:

29 **59-28-101**, Utah Code Annotated 1953

30 **59-28-102**, Utah Code Annotated 1953

31 **59-28-103**, Utah Code Annotated 1953

32 **59-28-104**, Utah Code Annotated 1953

33 **59-28-105**, Utah Code Annotated 1953

34 **59-28-106**, Utah Code Annotated 1953

35 **59-28-107**, Utah Code Annotated 1953

36 **59-28-108**, Utah Code Annotated 1953



38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **59-28-101** is enacted to read:

40 **CHAPTER 28. TANNING FACILITY TAX**

41 **59-28-101. Title.**

42 This chapter is known as the "Tanning Facility Tax."

43 Section 2. Section **59-28-102** is enacted to read:

44 **59-28-102. Definitions.**

45 As used in this section:

46 (1) "Phototherapy device" means equipment that emits ultraviolet radiation used by a
47 health care professional in the treatment of disease.

48 (2) (a) "Tanning device" means any equipment that emits electromagnetic radiation
49 with wavelengths in the air between 200 and 400 nanometers used for tanning of the skin,
50 including:

51 (i) a sunlamp; and

52 (ii) a tanning booth or bed.

53 (b) "Tanning device" does not include a phototherapy device.

54 (3) "Tanning facility" means any commercial location, place, area, structure, or
55 business which provides persons access to any tanning device.

56 Section 3. Section **59-28-103** is enacted to read:

57 **59-28-103. Tax imposed on a tanning facility.**

58 (1) A tax is imposed on a tanning facility equal to 10% of amounts paid to, or charged

59 by, the tanning facility for:

60 (a) an admission fee to the tanning facility; or

61 (b) a user fee for the use of a tanning device.

62 (2) The tax imposed by this section may not be imposed on any sales and use tax

63 collected or paid under Chapter 12, Sales and Use Tax Act.

64 (3) The commission shall administer this chapter in accordance with Chapter 12, Part

65 1, Tax Collection.

66 Section 4. Section **59-28-104** is enacted to read:

67 **59-28-104. Payment of tax.**

68 (1) Subject to Subsection (2), a tanning facility subject to the tax imposed by this
69 chapter shall file a return with the commission and pay the tax calculated on the return to the
70 commission:

71 (a) quarterly on or before the last day of the month immediately following the last day
72 of the previous calendar quarter if the tanning facility:

73 (i) is required to file a quarterly sales and use tax return with the commission under
74 Section 59-12-107; or

75 (ii) is not required to file a sales and use tax return with the commission under Chapter
76 12, Sales and Use Tax Act; or

77 (b) monthly on or before the last day of the month immediately following the last day
78 of the previous calendar month if the tanning facility is required to file a monthly sales and use
79 tax return with the commission under Section 59-12-108.

80 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
81 commission may make rules to establish standards for determining whether an operation is a
82 tanning facility.

83 Section 5. Section **59-28-105** is enacted to read:

84 **59-28-105. Melanoma Cancer Research Fund.**

85 (1) There is created a restricted special revenue fund called the "Melanoma Cancer
86 Research Fund."

87 (2) (a) Except as provided in Subsection (3), the fund consists of all amounts collected
88 by the commission under this chapter.

89 (b) (i) The monies in the fund shall be invested by the state treasurer pursuant to Title

90 51, Chapter 7, State Money Management Act.

91 (ii) All interest or other earnings derived from the fund monies shall be deposited in the
92 fund.

93 (3) Notwithstanding any other provisions of this chapter, the commission may retain an
94 amount of tax collected under this chapter of not to exceed the lesser of:

95 (a) 1.5%; or

96 (b) an amount equal to the cost to the commission of administering this chapter.

97 (4) (a) Fund monies shall be used as provided in this Subsection (4).

98 (b) The Department of Health shall use the monies in the fund to award grants to
99 organizations for research related to melanoma cancer.

100 Section 6. Section **59-28-106** is enacted to read:

101 **59-28-106. Records.**

102 (1) An owner or operator of a tanning facility shall maintain records, statements,
103 books, or accounts necessary to determine the amount of tax for which the owner or operator is
104 liable to pay under this chapter.

105 (2) The commission may require an owner or operator of a tanning facility, by notice
106 served on the person, to make or keep the records, statements, books, or accounts described in
107 Subsection (1) in a manner in which the commission considers sufficient to show the amount
108 of tax for which the owner or operator is liable to pay under this chapter.

109 (3) After notice by the commission, the owner or operator of a tanning facility shall
110 open the records, statements, books, or accounts specified in this section for examination by
111 the commission or an authorized agent of the commission.

112 Section 7. Section **59-28-107** is enacted to read:

113 **59-28-107. Action for collection of tax -- Action for refund or credit of tax.**

114 (1) (a) Except as provided in Subsections (2) through (5), the commission shall assess
115 a tax under this chapter within three years after a tanning facility subject to the tax imposed by
116 this chapter files a return.

117 (b) Except as provided in Subsections (2) through (5), if the commission does not
118 assess a tax under this chapter within the three-year period provided in Subsection (1)(a), the
119 commission may not commence a proceeding to collect the tax.

120 (2) The commission may assess a tax at any time if a tanning facility subject to the tax

121 imposed by this chapter:

122 (a) files a false or fraudulent return with intent to evade; or

123 (b) does not file a return.

124 (3) The commission may extend the period to make an assessment or to commence a
125 proceeding to collect the tax under this chapter if:

126 (a) the three-year period described in Subsection (1) has not expired; and

127 (b) the commission and the tanning facility subject to the tax imposed by this chapter
128 sign a written agreement:

129 (i) authorizing the extension; and

130 (ii) providing for the length of the extension.

131 (4) If the commission delays an audit at the request of a tanning facility subject to the
132 tax imposed by this chapter, the commission may make an assessment as provided in
133 Subsection (5) if:

134 (a) the tanning facility subject to the tax imposed by this chapter subsequently refuses
135 to agree to an extension request by the commission; and

136 (b) the three-year period under Subsection (1) expires before the commission
137 completes the audit.

138 (5) An assessment under Subsection (4) shall be:

139 (a) for the time period for which the commission could not make an assessment
140 because of the expiration of the three-year period; and

141 (b) in an amount equal to the difference between:

142 (i) the commission's estimate of the amount of tax the tanning facility subject to the tax
143 imposed by this chapter would have been assessed for the time period described in Subsection
144 (5)(a); and

145 (ii) the amount of tax the tanning facility subject to the tax imposed by this chapter
146 actually paid for the time period described in Subsection (5)(a).

147 (6) (a) Except as provided in Subsection (6)(b), the commission may not make a credit
148 or refund, unless the tanning facility subject to the tax imposed by this chapter files a claim
149 with the commission within three years after the date of overpayment.

150 (b) Notwithstanding Subsection (6)(a), the commission shall extend the period for a
151 taxpayer to file a claim under Subsection (6)(a) if:

- 152 (i) the three-year period under Subsection (6)(a) has not expired; and
153 (ii) the commission and the tanning facility subject to the tax imposed by this chapter
154 sign a written agreement:
155 (A) authorizing the extension; and
156 (B) providing for the length of the extension.
157 Section 8. Section **59-28-108** is enacted to read:
158 **59-28-108. Penalties and interest.**
159 An owner or operator of a tanning facility that fails to comply with this chapter is
160 subject to:
161 (1) penalties provided in Section 59-1-401; and
162 (2) interest provided in Section 59-1-402.

Legislative Review Note
as of **2-17-09 10:24 AM**

Office of Legislative Research and General Counsel

H.B. 419 - Tanning Facilities Tax and Melanoma Cancer Research Fund

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill could increase restricted revenue to the Melanoma Cancer Research Fund created in the bill by \$620,000 annually.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
Restricted Funds	\$0	\$620,000	\$620,000	\$0	\$620,000	\$620,000
Total	\$0	\$620,000	\$620,000	\$0	\$620,000	\$620,000

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses, or local governments. Individuals using tanning facilities would see a 10 percent increase in costs of the service.
