

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Thursday, March 22, 2012

**TIME:** 2:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/  
EXCUSED:**

**NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**MINUTES:** **Chairman Lodge** called the meeting to order at 2:05 p.m., noting that the Committee had moved to Room WW55 due to the Commerce and Human Resource Committee running late in Room WW54.

**MINUTE APPROVAL** **Vice Chairman Broadsword** moved, seconded by **Senator Nuxoll**, that the minutes of the meeting of March 7, 2012, be approved. The motion carried by **voice vote**.

**MINUTE APPROVAL** **Senator Heider** moved, seconded by **Senator Nuxoll**, that the minutes of the meeting of February 27, 2012, be approved. The motion carried by **voice vote**.

**Chairman Lodge** stated she would rearrange the agenda to accommodate Committee members who are also attending the Commerce and Human Resources meeting. She also asked that guests wishing to present testimony on **H 486,aa,aa** limit their testimony to two minutes or less.

**H 486,aa,aa**

**Relating to Minors. Representative John Rusche**, District 7, advised that the purpose of this bill is to protect children from a significant source of cancer causing radiation. It makes it a misdemeanor for a child 15 years or younger to use a UV tanning bed; between 16 and 18 years parental consent is required. Cancer caused by this exposure can be prevented. At present, approximately 60 Idahoans die each year from melanoma, the most deadly form of skin cancer. He advised melanoma incidence is growing most rapidly in young women. The reason for this increase is an increase in UV exposure. He stated that there are other factors besides tanning beds, including non-tanning UV exposure from being outside, genetics, as well as high altitude where you have less atmospheric blockage of UV radiation. He noted that we can't control the sun, the elevation, or a person's genetics, but we can control the cancer causing damage from tanning beds. He advised that doctors are supporting this legislation and it fits within the traditional role of adults: protecting children from lifelong damage that occurs from bad decisions they make in their minority. This bill in no way limits choices of adults, but it does offer a significant protection to youth. **Representative Rusche** introduced **Blake Sampson** who he described as the driving force behind this bill.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

**Mr. Sampson** stated he became interested in this cause because of his wife, who tanned many times during high school and at the age of 22 developed precancerous moles and will live with the risk of developing melanoma throughout her life. He advised that Idaho has the number one melanoma death rate in the nation. He stated surveys show that teens in Idaho tan at a rate much higher than the national average, noting that statistics show that 22 percent of 14 year old girls tan

compared to 8.5 percent nationally. He advised that Idaho is one of only a few states without any legislation in this area. We protect our kids from other dangerous addictive cancerous causing substances. He stated parents need this to help them enforce their wishes that their children do not use tanning beds. He noted that a recent study published by Congress found that 90 percent of salons nationwide are telling a 15 year old girl in the study that there are no health risks whatsoever, and 50 percent of salons are saying there is absolutely no link to skin cancer. He advised that this legislation provides an exemption for medical reasons with a prescription from a physician.

**Vice Chairman Broadword** asked if the 22 percent of Idaho girls tanning all go to tanning beds, and where these statistics come from. **Mr. Sampson** responded this includes only girls using indoor UV tanning devices, and the statistics are from the 2009 Idaho Youth Assessment Risk Survey conducted by the Health and Welfare Department, also known as Kids Count.

**Vice Chairman Broadword** asked **Representative Rusche** what science was used to determine whether the melanoma he referred to in his remarks was caused by the tanning bed or the sun. **Representative Rusche** indicated he feels it is not possible to tell, but it is possible to eliminate a significant source that adds to the cancer cases in Idaho. He stated he would like to defer that question for further comment to specialists who are planning to testify.

**Senator Bock** asked if there is any study regarding the effect this type of legislation would have on teenagers tanning behavior, i.e., would they return to tanning in the sun. **Representative Rusche** advised that there will be testimony on the specific danger to children from excessive UV radiation and they will also explain why tanning bed UV radiation is of particular concern.

**Senator Darrington** noted that opponents have said other states do not have this kind of legislation and testimony here indicates that other states do have this legislation. He asked if the provisions are the same and are there other states with this legislation. Additionally he asked if doctors write prescriptions to other than pharmacies, i.e., to health clubs, tanning salons, cosmetologists, etc. **Representative Rusche** responded that physicians do write prescriptions for medically necessary services such as walkers, oxygen, etc. He further advised there are several states that have parental consent regulations, one state has a blanket restriction on minors using tanning beds, and 10 or 12 states are considering similar legislation.

**Senator Smyser** asked **Representative Rusche** what type of prevention education the Dermatology Society is doing in Idaho to alert young people. **Representative Rusche** asked to defer the question to other specialists who will testify. **Senator Smyser** also commented on the Kids Count Survey which is done in the schools to assess behavioral risks. She stated this is a small sampling that would not support the statistics quoted here. **Representative Rusche** advised that when a sampling is done they take a large enough sample to represent the group as a whole and the statistics quoted are valid.

**Chairman Lodge** commented that it was her understanding that a prescription by definition goes to a licensed pharmacy and asked if that is correct. **Representative Rusche** advised that a prescription is a formulation for medically necessary treatment and the statement that prescriptions can only be filled in a pharmacy is not correct. **Chairman Lodge** asked what the difference is between a prescription and doctor's orders. **Representative Rusche** stated, "nothing"; the prescription pad

is used to write out instructions whether it is for a pharmaceutical or not. **Chairman Lodge** further asked what would keep someone from writing what might look like a prescription and taking it to a tanning facility and how would that prescription be enforced by a tanning facility that is not a licensed pharmacy or medical provider. **Representative Rusche** stated he had not thought about anyone falsifying a prescription with a physician's signature for the purpose of obtaining tanning.

**Senator Heider** stated he is confused about why a person who is 15 cannot use a tanning bed and why a 16 to 18 year old can go with parental permission. **Representative Rusche** indicated that was an agreement reached in the House; originally the bill contained a prohibition under age 18.

**TESTIMONY:** **Kristi Christensen** spoke in support of H 486,aa,aa. She stated as a past health educator in the public school system she made a point to teach her teens about the danger of UV tanning beds. She often heard the argument that it can't be that bad or it would be illegal.

**Vice Chairman Broadsword** asked if she also cautioned about prolonged exposure to the sun and the need to use sunscreen. **Ms. Christensen** responded, "yes."

**TESTIMONY:** **Steven Mings, M.D.**, representing a variety of physician groups, including Idaho Dermatology Society, American Academy of Dermatology, the Boise Valley Dermatology Society, and Idaho Medical Association spoke in support of H 486,aa,aa. He stated he is on the front lines against skin cancer in his practice and the science is strong to support this bill. He stated there has been a concentrated education effort among his colleagues about the danger of UV radiation. He stated we have an obligation to protect children. He discussed the difference between melanoma and all other skin cancers and advised that it is risk factors that need to be looked at. He advised that Melanoma strikes young people and if we can influence behavior in childhood we may be able to decrease the risk of this deadly disease.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #2).

**Senator Bock** asked if there is a tendency for the basal cell cancer to evolve into melanoma or is it totally different. **Dr. Mings** advised that they come from completely separate cell lines and are not interchangeable.

**Senator Smyser** asked about predisposed genes that we know of that are risk factors in this type of cancer. **Dr. Mings** advised that family history is certainly a risk factor.

**Senator Vick** asked what the health risks of spray on tanning are. **Dr. Mings** indicated he did not know the answer to that question, but knows of no link to skin cancer.

**Vice Chairman Broadsword** asked why there is not legislation at the federal level to address this. **Dr. Rusche** stated that this is not within the scope of federal regulation; it is intrastate commerce rather than interstate commerce. However, the Food and Drug Administration does have regulation over the appliances.

**TESTIMONY:** **Joseph Levy**, Executive Director, International Smart Tan Educational Institute, spoke in opposition to H 486,aa,aa. He stated his organization supports constructive regulation of this market and he has worked with and trained regulatory agencies for decades. He indicated this bill will not accomplish what its proponents hope, in fact it accomplishes the exact opposite. He cited statistics that report

melanoma is more common in people who work indoors than in people who work outdoors. It is more common on parts of the body that do not receive regular sun exposure and it is much more common in men than it is in women. He stated that according to the National Cancer Institute melanoma rate for young women under the age of 20 is 0.5, that is 5 in 1 Million. He stated that if this bill is enacted three out of four teenagers will use sunbeds at home and will use them in unmonitored settings or will tan more aggressively outdoors. He stated that exposure schedules in salons regulate exposure to a non-burning experience based on an individual skin type.

Supporting documents relating to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #3).

**Senator Smyser** noted that one of the statements made by the proponents of this legislation are that tanning salons are giving false information to teenagers and asked what **Mr. Levy's** viewpoint is on this. He indicated the Congressional report noted in previous testimony does not exist. There is a minority report done by one Congressman's office that did not represent the committee action.

**Senator Schmidt** asked **Mr. Levy** who he represents and who he works for. **Mr. Levy** indicated he represents the International Smart Tan Network, the educational institute that trains tanning facility operators how to do their jobs correctly, and he works for the state regulators to develop programs to train the regulators as well. **Senator Schmidt** noted that he said in Colorado there is self regulation about who can use tanning facilities, and asked him to describe what those regulations are. **Mr. Levy** indicated that Colorado does not have a state standard to supplement the federal standards that regulate the market on parental consent, but salons are doing that anyway because salons can see that it is wise to have the parent know that a minor is tanning in a salon. **Senator Schmidt** asked if he is saying that some salons may choose to ask for parental consent. **Mr. Levy** responded that 92 percent of salons in the study were doing that already without any standard in place. **Senator Schmidt** asked if we are self regulating, how are we affecting the market. **Mr. Levy** indicated his issue with this bill is the misinformation which has been delivered.

**TESTIMONY:** **Heidi Low**, Medical Director of Governmental Relations, American Cancer Society, Cancer Action Network, spoke **in support** of **H 486,aa,aa**. She cited a study conducted by the National Cancer Institute involving 15 year old fair skinned females who had never tanned, where 71 percent of facilities said they would let a teen tan all 7 days the first week and many promoted frequent tanning. She stated this bill is a step in the right direction.

**TESTIMONY:** **Tom Patterson, M.D.**, representing the American Academy of Pediatrics, spoke **in support** of **H 486,aa,aa**. He stated he educates mothers on the benefits of sunscreen and avoiding midday sun exposure. He urged the Committee to look out for the children.

**TESTIMONY:** **Susie Pouliot**, representing the Idaho Medical Association (IMA), spoke emphasizing the IMA's **support** for **H 486,aa,aa**.

**TESTIMONY:** **Lisa Bulow**, a member of the Idaho Sol Survivors and a melanoma survivor, spoke **in support** of **H 486,aa,aa**. Stated that she took her daughter to tan with her and does not believe that parental consent alone is enough. She emphasized education is needed.

**TESTIMONY:** **Sharee Skinner**, owner of Southern Exposure, a tanning center in Nampa, spoke **in opposition** to **H 486,aa,aa**. She indicated tanning salons are already running like they are regulated and does not want to see Idaho take a step back to the time when tanning was done with baby oil in the sun. She stated that moderate use of tanning beds is beneficial in many ways.

**Senator Schmidt** asked **Ms. Skinner** to describe how much this legislation will hurt her business. She responded that under 16 years of age is about 5 percent of her business and under 18 more like 20 percent of her business.

**Vice Chairman Broadsword** asked why she would be opposed to having other salons get parental permission for those under 18 if she is already doing that herself. **Ms. Skinner** responded that they are already doing it and she would hope that can spread so that everyone is asking for the same thing. **Vice Chairman Broadsword** indicated she has been advised that the FDA already requires a sign on tanning beds warning about the risk of cancer and asked her to compare what is required now to what is required by this legislation. **Ms. Skinner** indicated the present signage indicates UV radiation may cause skin cancer and the proposed signage states that UV radiation from tanning devices is known to cause cancer in humans.

**TESTIMONY:** **Patty Moran** spoke in support of **H 486,aa,aa**. She cited statistics from 2001 to 2010 there were 85 young people ages 15 to 19 who lost their lives to melanoma skin cancer.

**TESTIMONY:** **Erik Makrush**, representing the Idaho Freedom Foundation, spoke in opposition to **H 486,aa,aa**, stated this bill does put a new regulatory restriction on tanning businesses related to signage and advertising.

**Senator Schmidt** asked how this bill restricts parent's rights and if he thinks we should repeal the tattoo statute. **Mr. Makrush** noted that anyone under the age of 15 years would not be able to tan even if the parent wanted them to. He indicated the Idaho Freedom Foundation opposes anything that restricts industry, specifically when there is not much study or if it is an individual right.

**Vice Chairman Broadsword** commented that **Mr. Makrush** stood before this Committee a couple of years ago and said the Idaho Freedom Foundation did not take positions, she asked if they have changed that and are now taking positions on legislation. **Mr. Makrush** stated that because of that interaction a few years ago, they have realigned their organization to be able to take a position.

**Senator Bock** asked if drinking and driving an individual right. **Mr. Makrush** responded that drinking and driving affects other people, whereas this only affects the individual.

**Chairman Lodge** asked that **Pam Eaton** with Idaho Retailers Association come to the podium for a question from **Vice Chairman Broadsword**. **Vice Chairman Broadsword** noted that **Ms. Eaton** had appeared before the Committee before and talked about sign restrictions on business and how much that costs individual businesses. She asked if **Ms. Eaton** had looked at this legislation and, if so, is there something more restrictive in here than what businesses are already doing and what she anticipates the cost to business will be. **Ms. Eaton** indicated that she has looked at this piece of legislation and with the amendment, it almost became worse on the retail level. She stated that the signage that is required is a huge issue.

**Representative Rusche** stated this issue is about kids in tanning beds, it will lower cancer risk and deaths and he asked for the Committee's support.

**MOTION:** **Senator Bock** moved, seconded by **Senator Schmidt**, that the Committee send **H 486,aa,aa** to the floor with a do pass recommendation. **Senator Bock** requested a roll call vote.

**SUBSTITUTE MOTION:** **Senator Smyser** made a substitute motion, seconded by **Senator Nuxoll**, that the Committee hold **H 486,aa,aa**. **Senator Bock** requested a roll call vote.

**DISCUSSION:** **Senator Smyser** commented that as the mother of a 15 year old and other children she feels it is important that the role of the adult and parent is education and prevention.

**VOTE:** **Chairman Lodge** called for a roll call vote on the substitute motion to hold **H 486,aa,aa** in Committee. The result of the vote was: **Senator Schmidt**, Nay; **Senator Bock**, Nay; **Senator Nuxoll**, Aye; **Senator Vick**, Aye; **Senator Heider**, Aye; **Senator Smyser**, Aye; **Senator Darrington**, Absent/Excused; **Vice Chairman Broadsword**, Nay; **Chairman Lodge**, Aye. The motion **passed** with 5 Ayes, 3 Nays, and 1 Absent/Excused.

**GUBERNATORIAL NOMINATION VOTE** **Allan R. Schneider** of Emmett, Idaho, was appointed to the Commission for the Blind & Visually Impaired to serve a term commencing September 22, 2011 and expiring July 1, 2012. **Senator Smyser** moved, seconded by **Senator Heider**, that the Committee send the gubernatorial appointment of **Allan R. Schneider** to the Commission for the Blind & Visually Impaired to the floor with the recommendation that it be confirmed by the Senate. The motion carried by **voice vote**.

**PAGE RECOGNITION** **Chairman Lodge** recognized pages, **Karl Lundgren** and **Kyle Son**, as two fine young men who have been spectacular support for the Committee. She asked that they each tell the Committee about their future plans.

**Mr. Lundgren** advised that his plans are to attend BYU in the fall on an Air Force ROTC scholarship and pursue a degree in engineering.

**Mr. Son** advised that his plans are to attend Idaho State University in the fall and pursue an MBA.

**Chairman Lodge** presented both pages with a framed letter of thanks which was signed by all Committee Members, and each received a set of cuff links reflecting the Idaho Seal. She thanked them both for their service to the Committee.

**ADJOURN:** **Chairman Lodge** announced that this would probably be the last Committee meeting for the year and thanked everyone for their hard work. She stated the year has been a wonderful experience for her and wished everyone the best.

**Senator Smyser** expressed how much she has appreciated working under **Chairman Lodge** as she is fair and forthright with all the people who come before the Committee and is an amazing leader.

The meeting was adjourned at 3:20 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary