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**SUBSTITUTE HOUSE BILL 2652**

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**State of Washington                      61st Legislature                      2010 Regular Session**

**By** House Health Care & Wellness (originally sponsored by Representatives Darneille, Dunshee, Driscoll, Green, Dickerson, and Orwall)

READ FIRST TIME 02/02/10.

1            AN ACT Relating to the regulation of tanning facilities; adding a  
2 new chapter to Title 18 RCW; prescribing penalties; and providing an  
3 effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.**    The definitions in this section apply  
6 throughout this chapter unless the context clearly requires otherwise.

- 7            (1) "Department" means the department of health.
- 8            (2) "Fitzpatrick scale" means a scale for classifying skin type,  
9 based on the skin's reaction to the first ten to forty-five minutes of  
10 sun exposure after the winter season as follows:
- 11            (a) Skin type 1: Always burns easily, never tans;
- 12            (b) Skin type 2: Always burns easily, tans minimally;
- 13            (c) Skin type 3: Burns moderately, tans gradually;
- 14            (d) Skin type 4: Burns minimally, always tans well;
- 15            (e) Skin type 5: Rarely burns, tans profusely;
- 16            (f) Skin type 6: Never burns, deeply pigmented.
- 17            (3) "Licensee" means a person licensed under this chapter.
- 18            (4) "Operator" means an individual designated by a licensee to

1 control the operation of a tanning facility and to instruct and assist  
2 the customer in the proper operation of tanning equipment or devices.

3 (5) "Person" means any individual, partnership, corporation, joint  
4 stock association, joint venture, or any other entity authorized to do  
5 business in this state.

6 (6) "Tanning device" or "tanning equipment" means equipment that  
7 emits radiation with wavelengths in the air between two hundred and  
8 four hundred nanometers used for tanning of the skin. "Tanning device"  
9 or "tanning equipment" includes any accompanying equipment, such as  
10 protective eyewear, timers, and handrails. "Tanning device" or  
11 "tanning equipment" does not include any of the following:

12 (a) Devices exempt under section 10 of this act;

13 (b) Devices for personal use in a private residence; or

14 (c) Devices intended for purposes other than the irradiation of  
15 human skin.

16 (7) "Tanning facility" means any place where a tanning device is  
17 used for a fee, membership dues, or any other compensation.

18 (8) "Ultraviolet radiation" means electromagnetic radiation with  
19 wavelengths between two hundred and four hundred nanometers.

20 NEW SECTION. **Sec. 2.** (1) No person may establish, maintain,  
21 operate, or hold himself or herself out as being authorized to  
22 establish, maintain, or operate a tanning facility without first having  
23 obtained a license under this chapter.

24 (2) A person seeking licensure under this chapter shall submit an  
25 application to the department on a form prescribed by the department.  
26 The application must contain the following information:

27 (a) The name, address, and telephone number of the tanning facility  
28 and owner;

29 (b) The manufacturer, model number, and type of each ultraviolet  
30 lamp or tanning device used in the tanning facility;

31 (c) A signed and dated certification that the applicant has read  
32 and understands the requirements of this chapter;

33 (d) A copy of the operating and safety procedures of the tanning  
34 facility; and

35 (e) Any additional information required by the department.

36 (3) The department shall issue a license to an applicant upon

1 determination that the applicant meets the requirements of this  
2 chapter. Each applicant shall pay a fee in an amount set by the  
3 department by rule.

4 (4) A licensee must post its license in a location clearly visible  
5 to its customers.

6 (5) A license expires annually on the date specified on the  
7 license. The department shall establish by rule the administrative  
8 procedures, administrative requirements, and fees for license renewals.

9 (6) The department shall set the licensing and renewal fees  
10 required in this section in an amount no greater than the amount  
11 necessary to defray the costs of administering this chapter, including  
12 the public awareness campaign required under section 9(2) of this act.

13 (7) Licenses issued under this chapter are not transferable from  
14 one person or one tanning facility to another.

15 NEW SECTION. **Sec. 3.** (1) The department may deny, suspend, or  
16 revoke a license for any of the following reasons:

17 (a) Submission of false statements in applications, reports, plans,  
18 or specifications;

19 (b) Operation of a tanning facility in a manner that threatens  
20 public health or safety;

21 (c) Failure to allow the department to have access to the tanning  
22 facility at reasonable hours for inspection or investigation;

23 (d) Failure to pay fees for licensure or renewal; and

24 (e) Any other violations of this chapter.

25 (2) Except for cases involving the public health, safety, or  
26 welfare, the department shall, prior to taking action to suspend or  
27 revoke the licensee's license, provide written notice to the licensee  
28 of the facts or conduct that may warrant suspension or revocation and  
29 shall provide the licensee with an opportunity to demonstrate or  
30 achieve compliance. In cases involving the public health, safety, or  
31 welfare, the department shall take immediate action to revoke or  
32 suspend the licensee's license.

33 (3) The denial, suspension, or revocation of a license under this  
34 section is governed by RCW 43.70.115.

35 (4) In addition to the denial, suspension, or revocation of a  
36 license, the department may, pursuant to chapter 34.05 RCW:

- 1 (a) Assess civil penalties not to exceed five thousand dollars per
- 2 violation; or
- 3 (b) Require a corrective action plan, subject to approval or
- 4 modification by the department, including a reasonable time schedule
- 5 for completion.

6 NEW SECTION. **Sec. 4.** (1) A tanning facility shall allow the  
7 department to have access to the facility at reasonable times for  
8 purposes of inspection and accessing records required under this  
9 chapter.

10 (2) When conducting an inspection under this section, the  
11 department may examine and review all of the following:

- 12 (a) The construction and operation of the tanning facility;
- 13 (b) The spectral transmittance to the eye of the protective eyewear
- 14 provided to users;
- 15 (c) The radiation output of the tanning equipment as measured under
- 16 operational conditions and typical user position;
- 17 (d) Any required records and training documentation;
- 18 (e) Operator understanding and competency; and
- 19 (f) Any other areas pertaining to the requirements of this chapter
- 20 as the department deems appropriate.

21 NEW SECTION. **Sec. 5.** (1) A tanning facility shall post a warning  
22 sign in a place readily visible to persons entering the establishment.  
23 The sign must have dimensions not less than eleven inches by seventeen  
24 inches. The sign must include the words, "DANGER--ULTRAVIOLET  
25 RADIATION" in letters at least one-half inch high. The sign must also  
26 include the following provisions in letters at least one-quarter inch  
27 high:

28 "Follow the manufacturer's instructions for use of this  
29 device.

30 Avoid overexposure. As with natural sunlight,  
31 overexposure can cause eye and skin injury and allergic  
32 reactions. Repeated exposure to ultraviolet radiation may  
33 cause chronic sun damage characterized by wrinkling, dryness,  
34 fragility, bruising of the skin, and skin cancer.

35 Do not sunbathe before or after exposure to ultraviolet  
36 radiation from sunlamps.

1           Wear protective eyewear. Failure to use protective  
2 eyewear may result in severe burns or permanent injury to the  
3 eyes.

4           Medications or cosmetics may increase your sensitivity  
5 to the ultraviolet radiation. Consult a physician before using  
6 a sunlamp if you are using medications, have a history of skin  
7 problems, or believe you are especially sensitive to sunlight.  
8 Women who are pregnant or are taking oral contraceptives who  
9 use this product may develop discolored skin.

10          A customer may contact the department of health to  
11 report an alleged injury regarding this tanning facility."

12          (2) The tanning facility shall provide each customer with a written  
13 warning statement requiring the customer's signature prior to initial  
14 exposure and prior to renewals of contracts. The warning statement  
15 shall include the following provisions:

16           "Failure to use the eye protection provided to the  
17 customer by the tanning facility may result in damage to the  
18 eyes.

19           Overexposure to ultraviolet light causes burns.

20           Repeated exposure to ultraviolet light may result in  
21 premature aging of the skin and skin cancer.

22           Abnormal skin sensitivity or burning may be caused by  
23 reactions of ultraviolet light to certain:

24           Food;

25           Cosmetics; or

26           Medications, including:

27           Tranquilizers;

28           Diuretics;

29           Antibiotics;

30           High blood pressure medications; or

31           Birth control pills.

32           Any person taking a prescription or over-the-counter  
33 drug should consult a physician prior to using a tanning  
34 device.

35           A person with skin that always burns easily and never  
36 tans should avoid a tanning device.

1           A person with a personal or family medical history of  
2           skin cancer should avoid a tanning device."

3           NEW SECTION.   **Sec. 6.** A tanning facility shall provide an oral or  
4           written report to the department of any tanning injury by the end of  
5           the next working day after either the date the injury occurred or the  
6           date the tanning facility became aware of the injury. The report must  
7           include the name of the affected customer, the name and location of the  
8           tanning facility, the nature of the injury, the name and address of the  
9           health care provider, if applicable, and any other relevant  
10          information. The department shall send reports of all injuries to the  
11          United States food and drug administration.

12          NEW SECTION.   **Sec. 7.** (1) All tanning equipment in a tanning  
13          facility must have a control that enables the user to manually  
14          terminate radiation without pulling the electrical plug or coming in  
15          contact with the ultraviolet lamp.

16          (2) A tanning facility shall replace tanning equipment bulbs at  
17          intervals required by the manufacturer. The bulbs must be replaced  
18          with the type of bulb intended for use in the equipment or with lamps  
19          or filters considered equivalent under applicable United States food  
20          and drug administration regulations at the time of the equipment's  
21          manufacture. The facility must maintain records of bulb replacement  
22          that are accessible to customers. The facility shall also post dates  
23          of bulb replacement on every tanning device in a manner visible to  
24          customers. The requirements of this subsection also apply to defective  
25          or burned-out lamps or filters.

26          (3) A tanning facility shall cleanse contact surfaces of tanning  
27          equipment between uses. After each cleansing, a visible sign must be  
28          placed on the bed or booth indicating that it has been properly  
29          cleansed. The facility shall also properly sanitize bathrooms and  
30          dressing rooms and shall provide customers with clean towels and  
31          washcloths. The department shall adopt rules related to the sanitation  
32          standards to be met in each tanning facility. The standards must meet  
33          the minimum standards for salons/shops under chapter 18.16 RCW.

34          (4) A tanning facility shall provide protective eyewear that meets  
35          minimum federal requirements for spectral transmittance.

1        NEW SECTION.    **Sec. 8.**    (1) A trained operator must be present when  
2 tanning equipment is operated in a tanning facility. The operator must  
3 be within hearing distance of the equipment to allow the customer to  
4 easily summon help if necessary or the customer must have access to an  
5 intercom or buzzer for the operator and the operator must be able to  
6 reach the customer in thirty seconds or less.

7        (2) An operator shall instruct each customer in all of the  
8 following:

9            (a) The proper position to maintain relative to the equipment;

10          (b) The position of the safety railing, if applicable;

11          (c) The operation of the control to manually terminate radiation;

12          (d) The maximum time of exposure.

13        (3) An operator must be able to recognize the skin type of the  
14 customer based on the Fitzpatrick scale and advise the customer  
15 accordingly with regard to maximum time of exposure.

16        (4) An operator shall limit a customer's tanning session duration  
17 and frequency to the maximums recommended by the manufacturer.

18        NEW SECTION.    **Sec. 9.**    (1) A tanning facility may not advertise or  
19 distribute promotional materials that claim that using a tanning device  
20 is safe or free from risk or that the use of a tanning device will  
21 result in medical or health benefits.

22        (2) The department shall conduct a public awareness campaign on the  
23 dangers of indoor tanning.

24        NEW SECTION.    **Sec. 10.**    Phototherapy or ultraviolet radiation  
25 devices providing therapeutic benefits to patients receiving medically  
26 supervised treatment for medical conditions from a health care  
27 professional regulated under chapter 18.130 RCW acting within the scope  
28 of his or her profession are exempt from the provisions of this  
29 chapter.

30        NEW SECTION.    **Sec. 11.**    In addition to the civil penalties for  
31 violating this chapter in section 2 of this act, a person who operates  
32 or uses a tanning device in violation of this chapter is guilty of a  
33 misdemeanor.

1        NEW SECTION.    **Sec. 12.** By July 1, 2011, the department shall adopt  
2 by rule a sample warning sign that meets the requirements of section  
3 5(1) of this act and model operating and safety procedures for tanning  
4 facilities. The department shall post the sign and procedures on its  
5 web site in a form that is easily downloaded and printed.

6        NEW SECTION.    **Sec. 13.** The department may by rule modify, as  
7 necessary, the prescribed form and content for the tanning facility  
8 records required by this chapter.

9        NEW SECTION.    **Sec. 14.** (1) The department shall adopt rules  
10 necessary to implement this chapter.

11        (2) The department may, by rule, impose additional requirements on  
12 licensed tanning facilities that are consistent with this chapter.  
13 When determining whether to impose additional requirements under this  
14 subsection, the department shall consider federal regulations and  
15 guidelines, regulations in other states, and industry guidelines and  
16 practices.

17        NEW SECTION.    **Sec. 15.** Sections 1 through 14 of this act  
18 constitute a new chapter in Title 18 RCW.

19        NEW SECTION.    **Sec. 16.** Sections 1 through 11, 13, and 14 of this  
20 act take effect July 1, 2011.

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