
SUBSTITUTE HOUSE BILL 1363

State of Washington 62nd Legislature 2011 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Darneille, Kirby, Dickerson, Orwall, Green, Jinkins, Billig, Eddy, Appleton, Dunshee, Roberts, and Kenney)

READ FIRST TIME 02/17/11.

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.

3 (4) Each applicant shall pay a fee in an amount set by the
4 department by rule. The fee shall be no greater than one hundred
5 twenty-five dollars per salon and twenty-five dollars per additional
6 bed over ten. In no case may the fee exceed the amount necessary to
7 defray the costs of administering this chapter.

8 (5) A licensee shall post its license in a location clearly visible
9 to its customers.

10 (6) A license shall expire annually on the date specified on the
11 license. The department shall establish the administrative procedures,
12 administrative requirements, and fees for license renewals. In no case
13 may the renewal fees exceed the amounts specified in subsection (4) of
14 this section.

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

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

19 (a) Submission of false statements in applications, reports, plans,
20 or specifications;

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

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

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

26 (e) Any other violations of this chapter.

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

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

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

3 (a) Assess civil penalties not to exceed five thousand dollars per
4 violation; or

5 (b) Require a corrective action plan, subject to approval or
6 modification by the department, including a reasonable time schedule
7 for completion.

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

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

14 (a) The construction and operation of the tanning facility;

15 (b) Any required records and training documentation;

16 (c) Operator understanding and competency; and

17 (d) Any other areas pertaining to the requirements of this chapter
18 as the department deems appropriate.

19 NEW SECTION. **Sec. 5.** An operator or employee of a tanning
20 facility may not allow a person under the age of eighteen to use a
21 tanning device of the facility unless the person presents a written
22 prescription for receiving ultraviolet radiation treatments from a
23 physician licensed under chapter 18.57 or 18.71 RCW.

24 NEW SECTION. **Sec. 6.** A tanning facility shall provide a written
25 report to the department of any tanning injury for which medical
26 attention was either sought or obtained. The facility shall submit the
27 report within five days after either the date the injury occurred or
28 the date the tanning facility became aware of the injury. The report
29 must include the name of the affected customer, the name and location
30 of the tanning facility, the nature of the injury, the name and address
31 of the health care provider, if applicable, and any other relevant
32 information. The department shall send reports of all injuries to the
33 United States food and drug administration.

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

5 (2) A tanning facility shall cleanse contact surfaces of tanning
6 equipment between uses. After each cleansing, a visible sign must be
7 placed on the bed or booth indicating that it has been properly
8 cleansed. The facility shall also properly sanitize bathrooms and
9 dressing rooms and shall provide customers with clean towels and
10 washcloths. The department shall adopt rules related to the sanitation
11 standards to be met in each tanning facility.

12 NEW SECTION. **Sec. 8.** (1)(a) Except as provided in subsection (2)
13 of this section, a trained operator must be present when tanning
14 equipment is operated in a tanning facility. The operator must be
15 within hearing distance of the equipment to allow the customer to
16 easily summon help if necessary or the customer must have access to an
17 intercom or buzzer for the operator and the operator must be able to
18 reach the customer in thirty seconds or less.

19 (b) An operator shall instruct each customer in all of the
20 following:

- 21 (i) The proper position to maintain relative to the equipment;
- 22 (ii) The position of the safety railing, if applicable;
- 23 (iii) The operation of the control to manually terminate radiation;
- 24 (iv) The maximum time of exposure.

25 (c) An operator must be able to recognize the skin type of the
26 customer based on the Fitzpatrick scale and advise the customer
27 accordingly with regard to maximum time of exposure.

28 (d) An operator shall limit a customer's tanning session duration
29 and frequency to the maximums recommended by the manufacturer.

30 (e) Beginning July 1, 2013, all operators must successfully
31 complete a department-approved training course.

32 (2) Tanning equipment may be operated without a trained operator
33 being present only if:

34 (a) The tanning equipment is remotely monitored by the tanning
35 facility during the period of time the operator is not present;

36 (b) Customers are provided with personal security devices capable
37 of summoning first responders in case of an emergency; and

1 (c) Each customer using the tanning equipment without a tanning
2 operator being present has had at least one prior tanning session with
3 an operator present in which the customer received the instruction
4 required in subsection (1)(b) of this section.

5 NEW SECTION. **Sec. 9.** A tanning facility may not advertise or
6 distribute promotional materials that claim that using a tanning device
7 is safe or free from risk or that the use of a tanning device will
8 result in medical or health benefits.

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

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

19 NEW SECTION. **Sec. 12.** By July 1, 2012, the department may by rule
20 modify, as necessary, the prescribed form and content for the tanning
21 facility records required by this chapter.

22 NEW SECTION. **Sec. 13.** By July 1, 2012, the department shall adopt
23 rules necessary to implement this chapter.

24 NEW SECTION. **Sec. 14.** Sections 1 through 13 of this act
25 constitute a new chapter in Title 18 RCW.

26 NEW SECTION. **Sec. 15.** Sections 1 through 11 of this act take
27 effect July 1, 2012.

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