
HOUSE BILL 1363

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Darneille, Kirby, Dickerson, Orwall, Green, Jinkins, Billig, Eddy, Appleton, Dunshee, Roberts, and Kenney

Read first time 01/19/11. Referred to Committee on Health Care & Wellness.

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 legislature finds that, unlike thirty-
6 nine states that have enacted legislation to regulate the indoor
7 tanning industry, the state of Washington has no regulations or age
8 restrictions for the use of ultraviolet tanning beds, even though
9 strong evidence exists that their use causes skin cancer. Those who
10 use ultraviolet tanning beds before the age of thirty-five have a
11 seventy-five percent increased risk of developing melanoma, a life-
12 threatening form of skin cancer. As the state of Washington has the
13 fifth highest rate of melanoma in the nation, there is a compelling
14 need in our state to protect our citizens, particularly the youth, from
15 the dangers of indoor tanning. It is therefore the intent of the
16 legislature to reduce the incidence of skin cancer in the state of
17 Washington by restricting access by minors to indoor tanning facilities
18 and by implementing safety, training, and licensure requirements for
19 these facilities.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires otherwise.

3 (1) "Department" means the department of health.

4 (2) "Fitzpatrick scale" means a scale for classifying skin type,
5 based on the skin's reaction to the first ten to forty-five minutes of
6 sun exposure after the winter season as follows:

7 (a) Skin type 1: Always burns easily, never tans;

8 (b) Skin type 2: Always burns easily, tans minimally;

9 (c) Skin type 3: Burns moderately, tans gradually;

10 (d) Skin type 4: Burns minimally, always tans well;

11 (e) Skin type 5: Rarely burns, tans profusely;

12 (f) Skin type 6: Never burns, deeply pigmented.

13 (3) "Licensee" means a person licensed under this chapter.

14 (4) "Operator" means an individual designated by a licensee to
15 control the operation of a tanning facility and to instruct and assist
16 the customer in the proper operation of tanning equipment or devices.

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

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

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

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

28 (c) Devices intended for purposes other than the irradiation of
29 human skin.

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

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

34 NEW SECTION. **Sec. 3.** (1) No person may establish, maintain,
35 operate, or hold himself or herself out as being authorized to
36 establish, maintain, or operate a tanning facility without first having
37 obtained a license under this chapter.

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

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

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

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

10 (d) A copy of the operating and safety procedures of the tanning
11 facility; and

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

13 (3) The department shall issue a license to an applicant upon
14 determination that the applicant meets the requirements of this
15 chapter.

16 (4) Each applicant shall pay a fee in an amount set by the
17 department by rule. The fee shall be no greater than five hundred
18 dollars per salon and one hundred dollars per additional bed over ten.
19 In no case may the fee exceed the amount necessary to defray the costs
20 of administering this chapter, including the public awareness campaign
21 required under section 11(2) of this act.

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

24 (6) A license shall expire annually on the date specified on the
25 license. The department shall establish the administrative procedures,
26 administrative requirements, and fees for license renewals. In no case
27 may the renewal fees exceed the amounts specified in subsection (4) of
28 this section.

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

31 NEW SECTION. **Sec. 4.** (1) The department may deny, suspend, or
32 revoke a license for any of the following reasons:

33 (a) Submission of false statements in applications, reports, plans,
34 or specifications;

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

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

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

4 (e) Any other violations of this chapter.

5 (2) Except for cases involving the public health, safety, or
6 welfare, the department shall, prior to taking action to suspend or
7 revoke the licensee's license, provide written notice to the licensee
8 of the facts or conduct that may warrant suspension or revocation and
9 shall provide the licensee with an opportunity to demonstrate or
10 achieve compliance. In cases involving the public health, safety, or
11 welfare, the department shall take immediate action to revoke or
12 suspend the licensee's license.

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

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

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

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

22 NEW SECTION. **Sec. 5.** (1) A tanning facility shall allow the
23 department to have access to the facility at reasonable times for
24 purposes of inspection and accessing records required under this
25 chapter.

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

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

29 (b) Any required records and training documentation;

30 (c) Operator understanding and competency; and

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

33 NEW SECTION. **Sec. 6.** An operator or employee of a tanning
34 facility may not allow a person under the age of eighteen to use a
35 tanning device of the facility unless the person presents a written

1 prescription for receiving ultraviolet radiation treatments from a
2 physician licensed under chapter 18.57 or 18.71 RCW.

3 NEW SECTION. **Sec. 7.** (1) A tanning facility shall post a warning
4 sign in a place readily visible to persons entering the establishment.
5 The sign must have dimensions not less than eleven inches by seventeen
6 inches. The sign must include the words, "DANGER--ULTRAVIOLET
7 RADIATION" in letters at least one-half inch high. The sign must also
8 include the following provisions in letters at least one-quarter inch
9 high:

10 "Follow the manufacturer's instructions for use of this
11 device.

12 Avoid overexposure. As with natural sunlight,
13 overexposure can cause eye and skin injury and allergic
14 reactions. Repeated exposure to ultraviolet radiation may
15 cause chronic sun damage characterized by wrinkling, dryness,
16 fragility, bruising of the skin, and skin cancer.

17 Do not sunbathe before or after exposure to ultraviolet
18 radiation from sunlamps.

19 Wear protective eyewear. Failure to use protective
20 eyewear may result in severe burns or permanent injury to the
21 eyes.

22 Medications or cosmetics may increase your sensitivity
23 to the ultraviolet radiation. Consult a physician before using
24 a sunlamp if you are using medications, have a history of skin
25 problems, or believe you are especially sensitive to sunlight.
26 Women who are pregnant or are taking oral contraceptives who
27 use this product may develop discolored skin.

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

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

34 "Failure to use the eye protection provided to the
35 customer by the tanning facility may result in damage to the
36 eyes.

1 Overexposure to ultraviolet light causes burns.

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

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

6 Food;

7 Cosmetics; or

8 Medications, including:

9 Tranquilizers;

10 Diuretics;

11 Antibiotics;

12 High blood pressure medications; or

13 Birth control pills.

14 Any person taking a prescription or over-the-counter
15 drug should consult a physician prior to using a tanning
16 device.

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

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

21 NEW SECTION. **Sec. 8.** A tanning facility shall provide an oral or
22 written report to the department of any tanning injury by the end of
23 the next working day after either the date the injury occurred or the
24 date the tanning facility became aware of the injury. The report must
25 include the name of the affected customer, the name and location of the
26 tanning facility, the nature of the injury, the name and address of the
27 health care provider, if applicable, and any other relevant
28 information. The department shall send reports of all injuries to the
29 United States food and drug administration.

30 NEW SECTION. **Sec. 9.** (1) All tanning equipment in a tanning
31 facility must have a control that enables the user to manually
32 terminate radiation without pulling the electrical plug or coming in
33 contact with the ultraviolet lamp.

34 (2) A tanning facility shall replace tanning equipment bulbs at
35 intervals required by the manufacturer. The bulbs must be replaced
36 with the type of bulb intended for use in the equipment or with lamps

1 or filters considered equivalent under applicable United States food
2 and drug administration regulations at the time of the equipment's
3 manufacture. The facility must maintain records of bulb replacement
4 that are accessible to customers. The facility shall also post dates
5 of bulb replacement on every tanning device in a manner visible to
6 customers. The requirements of this subsection also apply to defective
7 or burned-out lamps or filters.

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

16 NEW SECTION. **Sec. 10.** (1) A trained operator must be present when
17 tanning equipment is operated in a tanning facility. The operator must
18 be within hearing distance of the equipment to allow the customer to
19 easily summon help if necessary or the customer must have access to an
20 intercom or buzzer for the operator and the operator must be able to
21 reach the customer in thirty seconds or less.

22 (2) An operator shall instruct each customer in all of the
23 following:

- 24 (a) The proper position to maintain relative to the equipment;
- 25 (b) The position of the safety railing, if applicable;
- 26 (c) The operation of the control to manually terminate radiation;
- 27 (d) The maximum time of exposure.

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

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

33 NEW SECTION. **Sec. 11.** (1) A tanning facility may not advertise or
34 distribute promotional materials that claim that using a tanning device
35 is safe or free from risk or that the use of a tanning device will
36 result in medical or health benefits.

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

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

9 NEW SECTION. **Sec. 13.** In addition to the civil penalties for
10 violating this chapter in section 3 of this act, a person who operates
11 or uses a tanning device in violation of this chapter is guilty of a
12 misdemeanor.

13 NEW SECTION. **Sec. 14.** By January 1, 2012, the department shall
14 adopt by rule a sample warning sign that meets the requirements of
15 section 7(1) of this act and model operating and safety procedures for
16 tanning facilities. The department shall post the sign and procedures
17 on its web site in a form that is easily downloaded and printed.

18 NEW SECTION. **Sec. 15.** The department may by rule modify, as
19 necessary, the prescribed form and content for the tanning facility
20 records required by this chapter.

21 NEW SECTION. **Sec. 16.** The department shall adopt rules necessary
22 to implement this chapter.

23 NEW SECTION. **Sec. 17.** Sections 1 through 16 of this act
24 constitute a new chapter in Title 18 RCW.

25 NEW SECTION. **Sec. 18.** Sections 1 through 13, 15, and 16 of this
26 act take effect January 1, 2012.

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