
SENATE BILL 5593

State of Washington

62nd Legislature

2011 Regular Session

By Senators Kohl-Welles, Keiser, Conway, Kline, Murray, and Prentice

Read first time 01/31/11. Referred to Committee on Labor, Commerce & Consumer Protection.

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 the state of
6 Washington has no regulations or age restrictions for the use of
7 ultraviolet tanning beds, even though strong evidence exists that their
8 use causes skin cancer. It is therefore the intent of the legislature
9 to reduce the incidence of skin cancer in the state of Washington by
10 restricting access by minors to indoor tanning facilities and by
11 implementing safety, training, and licensure requirements for these
12 facilities.

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

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

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

- 1 (a) Skin type 1: Always burns easily, never tans;
- 2 (b) Skin type 2: Always burns easily, tans minimally;
- 3 (c) Skin type 3: Burns moderately, tans gradually;
- 4 (d) Skin type 4: Burns minimally, always tans well;
- 5 (e) Skin type 5: Rarely burns, tans profusely;
- 6 (f) Skin type 6: Never burns, deeply pigmented.

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

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

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

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

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

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

22 (c) Devices intended for purposes other than the irradiation of
23 human skin.

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

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

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

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

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

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

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

5 (d) A copy of the operating and safety procedures of the tanning
6 facility; and

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

8 (3) The department shall issue a license to an applicant upon
9 determination that the applicant meets the requirements of this
10 chapter.

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

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

19 (6) A license shall expire annually on the date specified on the
20 license. The department shall establish the administrative procedures,
21 administrative requirements, and fees for license renewals. In no case
22 may the renewal fees exceed the amounts specified in subsection (4) of
23 this section.

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

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

28 (a) Submission of false statements in applications, reports, plans,
29 or specifications;

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

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

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

35 (e) Any other violations of this chapter.

36 (2) Except for cases involving the public health, safety, or
37 welfare, the department shall, prior to taking action to suspend or

1 revoke the licensee's license, provide written notice to the licensee
2 of the facts or conduct that may warrant suspension or revocation and
3 shall provide the licensee with an opportunity to demonstrate or
4 achieve compliance. In cases involving the public health, safety, or
5 welfare, the department shall take immediate action to revoke or
6 suspend the licensee's license.

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

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

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

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

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

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

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

23 (b) Any required records and training documentation;

24 (c) Operator understanding and competency; and

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

27 NEW SECTION. **Sec. 6.** An operator or employee of a tanning
28 facility may not allow a person under the age of sixteen to use a
29 tanning device of the facility.

30 NEW SECTION. **Sec. 7.** (1) A tanning facility shall post a warning
31 sign in a place readily visible to persons entering the establishment.
32 The sign must have dimensions not less than eleven inches by seventeen
33 inches. The sign must include the words, "DANGER--ULTRAVIOLET
34 RADIATION" in letters at least one-half inch high. The sign must also

1 include the following provisions in letters at least one-quarter inch
2 high:

3 "Follow the manufacturer's instructions for use of this
4 device.

5 Avoid overexposure. As with natural sunlight,
6 overexposure can cause eye and skin injury and allergic
7 reactions. Repeated exposure to ultraviolet radiation may
8 cause chronic sun damage characterized by wrinkling, dryness,
9 fragility, bruising of the skin, and skin cancer.

10 Do not sunbathe before or after exposure to ultraviolet
11 radiation from sunlamps.

12 Wear protective eyewear. Failure to use protective
13 eyewear may result in severe burns or permanent injury to the
14 eyes.

15 Medications or cosmetics may increase your sensitivity
16 to the ultraviolet radiation. Consult a physician before using
17 a sunlamp if you are using medications, have a history of skin
18 problems, or believe you are especially sensitive to sunlight.
19 Women who are pregnant or are taking oral contraceptives who
20 use this product may develop discolored skin.

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

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

27 "Failure to use the eye protection provided to the
28 customer by the tanning facility may result in damage to the
29 eyes.

30 Overexposure to ultraviolet light causes burns.

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

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

35 Food;

36 Cosmetics; or

1 Medications, including:

2 Tranquilizers;

3 Diuretics;

4 Antibiotics;

5 High blood pressure medications; or

6 Birth control pills.

7 Any person taking a prescription or over-the-counter
8 drug should consult a physician prior to using a tanning
9 device.

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

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

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

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

27 (2) A tanning facility shall replace tanning equipment bulbs at
28 intervals required by the manufacturer. The bulbs must be replaced
29 with the type of bulb intended for use in the equipment or with lamps
30 or filters considered equivalent under applicable United States food
31 and drug administration regulations at the time of the equipment's
32 manufacture. The facility must maintain records of bulb replacement
33 that are accessible to customers. The facility shall also post dates
34 of bulb replacement on every tanning device in a manner visible to
35 customers. The requirements of this subsection also apply to defective
36 or burned-out lamps or filters.

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

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

15 (2) An operator shall instruct each customer in all of the
16 following:

- 17 (a) The proper position to maintain relative to the equipment;
- 18 (b) The position of the safety railing, if applicable;
- 19 (c) The operation of the control to manually terminate radiation;
- 20 (d) The maximum time of exposure.

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

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

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

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

32 NEW SECTION. **Sec. 12.** Phototherapy or ultraviolet radiation
33 devices providing therapeutic benefits to patients receiving medically
34 supervised treatment for medical conditions from a health care

1 professional regulated under chapter 18.130 RCW acting within the scope
2 of his or her profession are exempt from the provisions of this
3 chapter.

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

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

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

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

18 NEW SECTION. **Sec. 17.** The tanning facility account is created in
19 the custody of the state treasurer. All receipts from fees and
20 penalties imposed under this chapter must be deposited into the
21 account. Expenditures from the account may be used only for
22 administration of this chapter. Only the secretary of health or the
23 secretary's designee may authorize expenditures from the account. The
24 account is subject to allotment procedures under chapter 43.88 RCW, but
25 an appropriation is not required for expenditures.

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

28 NEW SECTION. **Sec. 19.** Sections 1 through 13 and 15 through 17 of
29 this act take effect January 1, 2012.

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