

CHAPTER 195  
FORMERLY  
SENATE BILL NO. 90  
AS AMENDED BY  
SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING  
TO TANNING FACILITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE (Two-thirds of all members elected to each house thereof  
concurring therein):

Section 1. Amend Title 16 of the Delaware Code to add new Chapter 30D to read as follows:

“Chapter 30D. Tanning Facilities

§ 3001D. Purpose.

The purpose of this chapter is to provide for the regulation of tanning facilities throughout this State in order to better provide for the health and welfare of its citizens.

§ 3002D. Definitions.

As used in this chapter:

(1) ‘Customer’ means any member of the public who is provided access to a tanning facility in exchange for a fee or other compensation or any individual who, in exchange for a fee or other compensation, is afforded use of a tanning facility as a condition or benefit of membership or access.

(2) ‘Department’ means the Department of Health and Social Services.

(3) ‘Minor’ means any individual less than eighteen (18) years of age.

(4) ‘Operator’ means an individual designated by the licensee to control operation of the tanning facility and to instruct and assist the customer in the proper operation of the tanning equipment.

(5) ‘Person’ means an individual, partnership, corporation, or association.

(6) ‘Tanning equipment or device’ means any equipment that emits radiation used for tanning of the skin, such as a sunlamp, tanning booth or tanning bed that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers. The term includes any accompanying equipment, including but not limited to timers, ballasts, starters, lamps, reflectors, cooling fans, acrylics, comfort pillows and handrails.

(7) ‘Tanning facility’ means any location, place, area, structure or business which provides customers access to tanning equipment.

§ 3003D. Restrictions on use by minors.

(a) A tanning facility shall not permit a minor between the ages of 14 to 18 to use a tanning device unless the minor provides a consent form signed by the parent or legal guardian at the time of first exposure, and the signature of the consent form is witnessed by an operator. The Department shall promulgate appropriate model language for the consent form to be used by tanning facilities that is consistent with subsection (b).

(b) The consent form should include all of the following:

- a. Failure to use eye protection may result in damage to the eyes.
- b. Overexposure to ultraviolet light causes burns.

c. Repeated exposure may result in premature aging of the skin and skin cancer.

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

- i. Foods
- ii. Cosmetics; or
- iii. Medications, including:
  1. tranquilizers;
  2. diuretics;
  3. antibiotics;
  4. high blood pressure medicines; or
  5. birth control pills.

e. Any person taking a prescription or over-the-counter drug should consult a physician before using a tanning device.

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

g. A person with a family or past medical history of skin cancer should avoid a tanning device.

(c) Any minor under 14 years of age may not use a tanning device unless deemed medically necessary as evidenced by a prescription from a properly licensed physician, a physician's assistant who is supervised by a licensed physician or an advanced practice nurse who is employed by or who has a collaborative agreement with a licensed physician and unless the minor also provides a consent form signed by the parent or legal guardian at the time of first exposure, and the signature on the consent form is witnessed by an operator.

(d) The minor's parent or legal guardian may withdraw the consent form at any time. Unless so withdrawn, the consent form shall expire one year from signature. A new consent form shall be provided by the minor, as prescribed in §3003D of this Title at such time.

§ 3004D. Liability.

The consent form provided under § 3003D shall not affect the liability of the owner, manager or operators of a tanning facility in the event that a customer incurs damages.

§ 3005D. Duty.

It shall be the duty of the tanning facility owner to ensure that each customer utilizing the tanning facility is of legal age to do so. The tanning facility licensee shall be held responsible for the use of the tanning facility by anyone under 18 years of age who does not submit a consent form as prescribed in §3003D of this Title.

§ 3006D. Records.

Records of consent forms shall be maintained for all minor customers of the tanning facility for a period of at least three years from date of signature. Records shall be maintained on the premises and made available for review by the Department upon request.

§3007D. Penalties.

Notwithstanding any other provision of Delaware law, a licensee who violates §3003D of this Title shall be guilty of a violation and shall be fined \$250 for the 1<sup>st</sup> offense, \$500 for the 2<sup>nd</sup> offense and \$1,000 for the 3<sup>rd</sup> and all subsequent offenses.

§3008D. Promulgation.

The Department shall promulgate any necessary rules and regulations to implement this chapter.”

Section 2. This Act may be cited as “The Michelle Rigney Act.”

Approved August 13, 2009