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Sens. Henry, Peterson, Sokola; Rep. Wilson, Longhurst,
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DELAWARE STATE SENATE
147th GENERAL ASSEMBLY

SENATE BILL NO. 94

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:

Section 1. Amend Chapter 30D, Title 16, Delaware Code by making insertions as shown by underlining and deletions as shown by strikethrough as follows:

§3002D Definitions:

As used in this chapter:

(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.~~

(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 having ~~with~~ wavelengths in the air between 200 and 400 nanometers and that is used for tanning of human skin and any equipment used with that equipment, including but not limited to protective eyewear, timers and handrails. Such term shall not include a phototherapy device used, or prescribed for use, by a physician. 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 that which provides customers access to any tanning equipment.~~ device.

(8) ~~“Phototherapy device” means equipment that emits ultraviolet radiation and is used in the diagnosis or treatment of disease or injury.~~

§ 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) of this section.~~

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

(1) Failure to use eye protection may result in damage to the eyes.

(2) Overexposure to ultraviolet light causes burns.

(3) Repeated exposure may result in premature aging of the skin and skin cancer.

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

a. Foods;

b. Cosmetics; or

c. Medications, including:

1. Tranquilizers;

2. Diuretics;

3. Antibiotics;

4. High blood pressure medicines; or

5. Birth control pills.

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

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

(7) 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 in a tanning facility 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 1 year from signature. A new consent form shall be provided by the minor, as prescribed in this section at such time.

~~§ 3004D. Liability.~~

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

~~§3005D.~~ §3004D. 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 owner shall be held responsible for the use of the tanning facility by any minor pursuant to anyone under 18 years of age who does not submit a consent form as prescribed in §3003D of this title.

~~§3006D.~~ §3005D. Records Warning signs and statements.

~~Records of consent forms shall be maintained for all minor customers of the tanning facility for a period of at least 3 years from date of signature. Records shall be maintained on the premises and made available for review by the Department upon request.~~

(a) Each tanning facility shall post at least 1 warning sign in a place readily visible to persons entering the facility. Lettering must be clear, legible, and at least ¼ inch in height, unless otherwise provided herein. The sign shall have dimensions not less than 11 inches by 17 inches and shall have the following statements:

- (1) “DANGER – ULTRAVIOLET RADIATION”, in capital letters at least ½ inch in height;
- (2) “Follow the manufacturer’s instructions for this device.”;
- (3) “Avoid overexposure. As with sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeated exposure to ultraviolet radiation may cause chronic sun damage characterized by wrinkling, dryness, fragility, bruising of the skin, and skin cancer.”;
- (4) “Avoid sunbathing before or after exposure to ultraviolet radiation from sunlamps.”;
- (5) “Wear protective eyewear. Failure to do so may result in severe burns or permanent injury to the eyes.”; and
- (6) “Medications or cosmetics may increase sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight.”

(b) Each customer shall be provided with a written warning statement prior to each use of the tanning equipment or device. The warning statement shall include the following statements:

- (1) “Failure to use eye protection may result in injury to the eyes.”;
- (2) “Overexposure to ultraviolet light may cause burns.”;
- (3) “Repeated exposure to ultraviolet light may result in skin cancer and premature aging of the skin.”;
- (4) “Abnormal skin sensitivity or burning may be caused by reactions of ultraviolet light to certain foods, cosmetics, or medications, including tranquilizers, diuretics, antibiotics, high blood pressure medications, and birth control pills.”;
- (5) “Anyone taking a prescription or over-the-counter drug should consult a physician before using any tanning equipment or device.”;

81 ~~§3007D.~~ §3006D. Penalties.

82 Notwithstanding any other provision of Delaware law, ~~a licensee~~ an owner who violates ~~§ 3003D of this title chapter~~
83 shall be guilty of a violation and shall be fined \$250 for the first offense, \$500 for the second offense and \$1,000 for the
84 third and all subsequent offenses.

85 Section 2. This Act shall take effect on January 1 following its enactment into law.

SYNOPSIS

 This Bill adds to current tanning bed restrictions by banning all minors from using tanning devices in tanning facilities. It also mandates warning signs and statements in tanning facilities.

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