
HOUSE BILL 1868

State of Washington 53rd Legislature 1993 Regular Session

By Representatives Morris, L. Johnson, G. Cole, Mielke, Quall and Jones

Read first time 02/12/93. Referred to Committee on Health Care.

1 AN ACT Relating to regulating tanning salons; and adding a new
2 chapter to Title 18 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** (1) The purpose of this chapter is to
5 regulate tanning facilities to minimize the risks associated with
6 tanning by artificial ultraviolet light. These risks include, but are
7 not limited to:

- 8 (a) Sunburn;
- 9 (b) Premature aging of the skin;
- 10 (c) Skin cancer;
- 11 (d) Retinal damage;
- 12 (e) Formation of cataracts;
- 13 (f) Suppression of the immune system;
- 14 (g) Damage to the vascular system; and
- 15 (h) Improper sanitation of tanning devices.

16 (2) The requirements of this chapter apply to any tanning facility
17 that operates any tanning devices. Physicians' phototherapy devices
18 are exempted under section 14 of this act.

1 NEW SECTION. **Sec. 2.** For the purposes of this chapter, unless the
2 context requires otherwise:

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

4 (2) "Consumer" means a member of the public who is provided access
5 to a tanning device in exchange for a fee or other compensation, or any
6 individual who, in exchange for a fee or other compensation, is
7 afforded use of a tanning device as a condition or benefit of
8 membership or access.

9 (3) "Handrails" means a suitable physical aid that will help to
10 maintain proper exposure distance.

11 (4) "Individual" means a human being.

12 (5) "Minor" means an individual under the age of eighteen.

13 (6) "Operator" means the person who has control over the day-to-day
14 operations in premises offering ultraviolet tanning facilities.

15 (7) "Other compensation" means the payment or exchange of goods,
16 services, or anything of value for use of the tanning device or
17 devices.

18 (8) "Person" means an individual, corporation, partnership, firm,
19 association, trust, estate, public or private institution, group,
20 agency, political subdivision of this state, any other state political
21 subdivision or agency thereof, and any legal successor, representative,
22 agent, or agency of these entities.

23 (9) "Phototherapy device" means equipment that emits ultraviolet
24 radiation used by a health care professional in the treatment of
25 disease or illness.

26 (10) "Protective eyewear" means suitable eyewear that protects the
27 eye from ultraviolet radiation and allows adequate vision.

28 (11) "Registrant" means any person who is registered with the
29 department as required by provisions of this chapter.

30 (12) "Registration" means registration with the department in
31 accordance with provisions of this chapter.

32 (13) "Tanning device" means equipment used for tanning of the skin,
33 that emits electromagnetic radiation with wavelengths in the air
34 between two hundred and four hundred nanometers including, but not
35 limited to, a sunlamp, ultraviolet lamp, tanning booth, or tanning bed.
36 "Tanning device" also means accompanying equipment, including, but not
37 limited to, protective eyewear, timers, and handrails.

38 (14) "Tanning facility" means a location, place, area, structure,
39 or business that provides persons access to a tanning device.

1 (15) "Timers" means a device provided to terminate the exposure at
2 a preset time interval.

3 (16) "Ultraviolet radiation" means radiation that has a wavelength
4 between two hundred nanometers and four hundred nanometers.

5 NEW SECTION. **Sec. 3.** (1) Prior to the operation of any tanning
6 device used by the public for a fee or other compensation, the owner or
7 operator shall file an application with the department to register each
8 tanning device.

9 (2) If the owner or operator owns or operates more than one tanning
10 facility, the owner or operator shall file a separate application for
11 each facility owned or operated.

12 (3) Registration application shall be made on forms furnished by
13 the department.

14 (4) A validation certificate or acknowledgement of validation will
15 be issued by the department.

16 (5) The certificate issued by the department shall be effective for
17 one year beginning October 1 and continuing through September 30.

18 (6) The certificate shall be displayed in a conspicuous place on
19 the premises of the tanning facility.

20 (7) The department will provide an identification number for
21 attachment to each tanning device:

22 (a) Identification numbers shall not be removed without written
23 permission of the department; and

24 (b) Identification numbers shall not be defaced.

25 (8) The registrant shall notify the department in writing before
26 making any change which would render the information contained in the
27 application for registration or the validation of registration no
28 longer accurate.

29 (9) No registration may be transferred from one person to another
30 person, from one tanning facility to another tanning facility, or from
31 one tanning device to another tanning device.

32 (10) In the event of a change in ownership, the new owner will be
33 required to apply for a registration of the tanning device within
34 thirty days after taking possession of the property.

35 (11) Tanning facilities already in existence at the time of the
36 effective date of this act may continue to operate. The facility shall
37 be given priority in the inspection process by the department.
38 However, if a tanning facility fails to meet the standards, it may be

1 prohibited from continuing to operate until such time as it has met
2 those standards through evaluation by the department's inspectors or
3 through a hearing held by the department.

4 NEW SECTION. **Sec. 4.** (1) The registrant shall be responsible for
5 directing the operation of the tanning facility that has been
6 registered with the department. That individual or individual's agent
7 shall assure that the provisions of this chapter are met in the
8 operation of tanning devices.

9 (2) A tanning device that does not meet the provisions of this
10 chapter shall not be operated.

11 (3) The registrant shall assure that the tanning facility complies
12 with all applicable federal laws and regulations.

13 NEW SECTION. **Sec. 5.** Unless otherwise ordered or approved by the
14 department, each tanning facility shall be constructed, operated, and
15 maintained to meet the following minimum requirements:

16 (1) Physical facilities:

17 (a) All tanning facilities shall be equipped with convenient toilet
18 facilities and dressing rooms. Such toilet facilities shall include a
19 water closet and hand-washing sinks. Such toilet and dressing rooms
20 shall be properly maintained, as well as meet all state and local
21 codes.

22 (b) All areas of the tanning facility shall be well-ventilated.

23 (c) Tanning booth temperature shall be maintained below one hundred
24 degrees Fahrenheit (thirty-eight degrees centigrade) during booth
25 operation.

26 (d) The tanning device shall meet the national fire protection
27 association's national electrical code, or be approved by the
28 underwriter laboratories or electrical testing laboratories.

29 (e) Except as otherwise noted by the department, each tanning
30 facility shall be constructed, operated, and maintained in accordance
31 with applicable city, county, and state codes.

32 (2) Cleaning and maintenance:

33 (a) All areas of the tanning facility, including tanning devices,
34 equipment, and apparatus, shall be maintained in a clean and sanitary
35 manner and in accordance with manufacturer's instructions.

36 (b) The tanning device or devices and protective eyewear shall be
37 cleaned with an approved sanitizer after each use. The ultraviolet

1 light produced by the tanning device itself is not considered an
2 adequate sanitizing agent.

3 (c) Clean sanitary towels shall be provided to all patrons using
4 tanning facilities.

5 (d) A hamper or receptacle must be provided for all soiled towels
6 and linen.

7 NEW SECTION. **Sec. 6.** A tanning facility shall have each customer
8 read and sign a statement warning that:

9 (1) Not wearing the protective eyewear provided to each customer by
10 the tanning facility may cause damage to the eyes.

11 (2) Overexposure to the tanning process may cause burns.

12 (3) Repeated exposure to the tanning process may cause skin cancer
13 or premature aging of the skin or both.

14 (4) Abnormal skin sensitivity or burning may result from the
15 tanning process if the customer is also consuming or using certain:

16 (a) Foods;

17 (b) Cosmetics; or

18 (c) Medications such as antibiotics, diuretics, tranquilizers,
19 chemotherapy agents, or birth control pills.

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

22 (6) If you do not tan in the sun, you are unlikely to tan from use
23 of this product.

24 NEW SECTION. **Sec. 7.** (1) The registrant shall conspicuously post
25 the warning sign described in subsection (2) of this section within one
26 meter of each tanning station and in such a manner that the sign is
27 clearly visible, not obstructed by any barrier, equipment, or other
28 object, and is easily viewed by the consumer before operating the
29 tanning device.

30 (2) The warning sign in subsection (1) of this section shall use
31 upper and lower case letters which are at least ten millimeters and
32 five millimeters in height, respectively, and shall have the following
33 wording:

34 DANGER - ULTRAVIOLET RADIATION

35 - Follow instructions.

- 1 - Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause premature aging of the skin and/or skin cancer.
- 4 - Wear protective eyewear.

5 FAILURE TO USE PROTECTIVE EYEWEAR
6 MAY RESULT IN SEVERE BURNS OR
7 LONG-TERM INJURY TO THE EYES.

- 8 - Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using sunlamp or tanning device if you are using medications or have a history of skin problems or believe yourself to be especially sensitive to sunlight.
- 12 - If you do not tan in the sun, you are unlikely to tan from the use of this product.

14 NEW SECTION. **Sec. 8.** (1) The registrant shall provide protective eyewear to each consumer for use during any use of tanning devices.

16 (2) The protective eyewear in subsection (1) of this section shall meet the requirements of 21 C.F.R. Part 1040, Sec. 1040.20(c)(5).

18 (3) Tanning facility operators shall ensure that consumers wear the protective eyewear required by this section.

20 NEW SECTION. **Sec. 9.** The registrant shall certify that all tanning device operators are adequately trained in at least the following and that the information shall be available in a manual that is available at all times:

- 24 (1) The requirements of this chapter;
- 25 (2) Procedures for correct operation of the tanning facility and tanning devices;
- 27 (3) Recognition of injury or overexposure to ultraviolet radiation;
- 28 (4) The tanning device manufacturer's procedures for operation and maintenance of the tanning devices;
- 30 (5) The determination of skin type of customers and appropriate determination of duration of exposure to registered tanning devices;
- 32 and
- 33 (6) Emergency procedures to be followed in case of injury.

1 NEW SECTION. **Sec. 10.** The registrant shall establish and use a
2 procedure manual that will aid in the protection of the consumer to
3 excessive or unnecessary exposure to ultraviolet light. This manual
4 shall include, but is not limited to, the following:

5 (1) Only one consumer per tanning device at a time; or

6 (2)(a) When two or more tanning devices are used in the same room,
7 only those consumers using tanning devices should be present in the
8 room; and

9 (b) In the case of a consumer using a tanning device who may need
10 the aid or assistance from another person, that individual must also be
11 provided with and wear protective eyewear.

12 NEW SECTION. **Sec. 11.** (1) The registrant shall use only tanning
13 devices manufactured in accordance with the specifications set forth in
14 21 C.F.R. Part 1040, Sec. 1040.20, "Sunlamp Products and Ultraviolet
15 Lamps Intended for Use in Sunlamp Products."

16 (2) Each sunlamp product or ultraviolet lamp used in these
17 facilities shall emit no measurable ultraviolet C radiation.

18 (3) Each ultraviolet lamp contained within the sunlamp product
19 shall be shielded so as to not come into contact with the consumer. A
20 transparent cover shall be used for this purpose.

21 (4) Each tanning booth in which the consumer is in a standing
22 position shall provide a handrail for the consumer to hold onto during
23 operation of the tanning device. Each tanning device shall have,
24 clearly marked, the appropriate position the consumer is to assume
25 prior to operation.

26 (a) The construction of the booth shall be such that it will have
27 the strength to withstand the stress of use and the impact of a falling
28 person.

29 (b) Entry to stand-up booths shall be of rigid construction with
30 doors that are nonlatching and open outwardly.

31 (5) Adequate means shall be provided to enable a consumer to summon
32 assistance from the exposure position.

33 (6) Servicing and repair shall be carried out by a competent person
34 in accordance with the information supplied with the device.

35 (7) Defective or burned out tanning lamps or bulbs shall be
36 replaced with a type intended for use in that device and shall be of
37 the same ultraviolet range (A or B) as the manufacturer specifies, and

1 shall be the original lamp type as specified by the manufacture, or an
2 equivalent lamp approved by the federal food and drug administration.

3 (8) If the ultraviolet tanning device is not in individual
4 cubicles, then suitable screens, curtains, and similar means shall be
5 provided, maintained, and used to prevent unnecessary exposure to
6 ultraviolet radiation of persons other than those using particular
7 items of equipment.

8 (9) The facility operator shall ensure that consumers do not exceed
9 the tan time indicated by the manufacturer.

10 (10) Each timer must be functional and accurate to within ten
11 percent.

12 (11) The registrant shall ensure that the timer is checked annually
13 for accuracy.

14 (12) All tanning devices shall be maintained to the minimum
15 requirements of the manufacturer and the rules of the department.

16 NEW SECTION. Sec. 12. (1) The registrant shall maintain for three
17 years a record of each consumer's total number of tanning visits,
18 dates, and durations of tanning exposures.

19 (2) The registrant shall maintain a record of each consumer's
20 signature and acknowledgement that they understand the potential risks
21 involved with exposure to ultraviolet radiation and overexposure, and
22 that they have reviewed a photosensitizing drug list.

23 (3) The registrant shall submit to the department a written report
24 of injury for which medical attention was sought or obtained from the
25 use of registered tanning devices within five working days after
26 occurrence. The report shall include:

27 (a) The name, address, and phone number of the affected individual;

28 (b) The name, location, and phone number of the tanning facility
29 involved;

30 (c) The nature of the actual or alleged injury; and

31 (d) Any other information relevant to the actual or alleged injury
32 to include the date and duration of exposure and any documentation of
33 medical attention sought or obtained.

34 (4) The registrant shall maintain records showing the results of
35 annual timer tests.

36 (5) The registrant shall maintain a record of operator training as
37 required in section 10 of this act.

1 (6) The registrant shall maintain the following information for
2 each tanning device:

3 (a) Manufacturer's equipment manual and any other service related
4 material or instruction;

5 (b) The exposure schedule developed by the manufacturer;

6 (c) Records of surveys, inspections, maintenance, and modifications
7 performed on the tanning device with names of persons performing such
8 services.

9 (7) Records shall be maintained for inspection by the department
10 and shall be so filed as to be readily available for review.

11 NEW SECTION. **Sec. 13.** (1) No person or facility may advertise the
12 use of any ultraviolet A or ultraviolet B tanning device using wording
13 such as "safe," "safe tanning," "no harmful rays," "no adverse effect,"
14 or similar wording or concepts.

15 (2) No person, in any advertisement, may refer to the fact that
16 such person, or such person's facility, is registered with the
17 department pursuant to the provisions of this chapter, and no person
18 shall state or imply that any activity under such registration has been
19 approved by the department.

20 NEW SECTION. **Sec. 14.** (1) The department may, upon application
21 therefore or upon its own initiative, grant such exemptions or
22 exceptions from the requirements of this section as it determines are
23 authorized by this chapter and will not result in undue hazard to
24 public health and safety.

25 (2) A phototherapy device used by or under the direct supervision
26 of a physician licensed under chapter 18.57 or 18.71 RCW is exempt from
27 the requirements of this chapter.

28 (3) Any individual is exempt from the provisions of this chapter to
29 the extent that such individual owns a tanning device exclusively for
30 personal use.

31 (4) Tanning devices, while in transit or storage incidental
32 thereto, are exempt from the provisions of this chapter.

33 NEW SECTION. **Sec. 15.** (1) The department may deny, suspend, or
34 revoke registration issued pursuant to this chapter.

1 (a) For any written false statement in the application for
2 registration or in any statement of fact as required by provisions of
3 this chapter;

4 (b) Because of conditions revealed by the application or any
5 report, record, inspection, or other means that would warrant the
6 department to refuse to grant a registration;

7 (c) For operation of the tanning facility in a manner that causes
8 or threatens to cause hazard to the public health or safety;

9 (d) For failure to allow authorized representatives of the
10 department to enter the tanning facility at reasonable times for the
11 purpose of determining compliance with the provisions of this chapter,
12 or an order of the department; or

13 (e) For violation of, or failure to observe any of the terms and
14 conditions of the rules in this chapter, or an order of the department.

15 (2) Except in cases of willfulness or cases in which the public
16 health, interest, or safety requires otherwise, prior to the
17 institution of proceedings for suspension or revocation of a
18 registration, the department shall:

19 (a) Call to the attention of the registrant, in writing, the facts
20 or conduct that may warrant such actions; and

21 (b) Provide reasonable opportunity for the registrant to
22 demonstrate or achieve compliance with all lawful requirements.

23 (3) A person aggrieved by a decision by the department to deny a
24 registration or to suspend or revoke a registration after issuance may
25 request a hearing.

26 (4) The department may terminate a registration upon receipt of a
27 written request for termination from the registrant.

28 NEW SECTION. **Sec. 16.** (1) A person who sells, leases, transfers,
29 or lends tanning devices in this state shall notify the department of
30 the following within thirty days after each sale or installation:

31 (a) Name and address of persons who have received these devices;

32 (b) The manufacture model and serial number of each device; and

33 (c) The date of transfer.

34 (2) No person shall make, sell, lease, transfer, lend, or install
35 tanning devices or the supplies used in connection with such devices
36 unless such supplies and equipment when placed in operation and use,
37 will meet the requirements of this chapter.

1 (3) State identification numbers shall not be removed, altered, or
2 defaced by any vendor doing business in this state, without written
3 permission of the department.

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

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