

Senator Patricia W. Jones proposes the following substitute bill:

REGULATION OF TANNING FACILITIES

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patricia W. Jones

House Sponsor: Brad R. Wilson

LONG TITLE

General Description:

This bill amends Utah Health Code provisions regulating tanning facilities.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ amends tanning facility permit requirements;
- ▶ prohibits a tanning facility from allowing use of its tanning device unless the facility meets specified requirements;
- ▶ amends restrictions on use of a tanning facility's tanning device by a person under 18 years of age;
- ▶ amends tanning facility warning sign requirements;
- ▶ amends rulemaking authority;
- ▶ authorizes a local health department to create requirements for obtaining a permit to operate a tanning facility in excess of the minimum requirements specified by the Utah Department of Health;
- ▶ amends penalties; and
- ▶ makes technical changes.

Money Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **26-15-13**, as enacted by Laws of Utah 2007, Chapter 25



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **26-15-13** is amended to read:

35 **26-15-13. Regulation of tanning facilities.**

36 (1) For purposes of this section:

37 (a) "Phototherapy device" means equipment that emits ultraviolet radiation used by a
38 health care professional in the treatment of disease.

39 (b) (i) "Tanning device" means ~~[any]~~ equipment, to which a tanning facility provides
40 access, that emits electromagnetic radiation with wavelengths in the air between 200 and 400
41 nanometers and is used for tanning of the skin, including:

42 (A) a sunlamp; and

43 (B) a tanning booth or bed.

44 (ii) "Tanning device" does not include a phototherapy device.

45 (c) "Tanning facility" means ~~[any]~~ a commercial location, place, area, structure, or
46 business [which] that provides [persons] access to [any] a tanning device.

47 ~~[(2) A tanning facility shall:]~~

48 ~~[(a) annually obtain a permit to do business as a tanning facility from the local health~~
49 ~~department with jurisdiction over the location in which the facility is located; and]~~

50 ~~[(b) in accordance with Subsection (3) post a warning sign in a conspicuous location~~
51 ~~that is readily visible to a person about to use a tanning device.]~~

52 ~~[(3) The posted warning and written consent required by Subsections (2) and (5) shall~~
53 ~~be developed by the department through administrative rules.]~~

54 ~~[(4) It is unlawful for any operator of a tanning facility to allow a person younger than~~
55 ~~18 years old to use a tanning device unless the minor's parent or legal guardian:]~~

56 ~~[(a) appears in person at the tanning facility the first time that the minor uses a tanning~~

57 ~~device, and at least once each 12-month period thereafter in which the minor uses the tanning~~
58 ~~device; and]~~

59 ~~[(b) signs the consent form required in Subsection (5).]~~

60 ~~[(5) The written consent required by Subsection (4) shall be signed and dated, and shall~~
61 ~~include at least:]~~

62 ~~[(a) information concerning the health risks associated with the use of a tanning~~
63 ~~device;]~~

64 ~~[(b) if the individual using the tanning device is a minor, a statement that:]~~

65 ~~[(i) the parent or legal guardian of the minor has read and understood the warnings~~
66 ~~given by the tanning facility, and consents to the minor's use of a tanning device;]~~

67 ~~[(ii) the parent or legal guardian agrees that the minor will use protective eye wear;~~
68 ~~and]~~

69 ~~[(iii) includes the number of tanning sessions within the 12-month period of time the~~
70 ~~parent is authorizing for the minor.]~~

71 (2) (a) A tanning facility may not operate in this state unless it has obtained a permit to
72 do so from the local health department with jurisdiction over the location at which the tanning
73 facility is located.

74 (b) Unless revoked, the permit is valid for one year.

75 (3) A tanning facility may not allow a person to use a tanning device unless:

76 (a) within the past 12 months the facility has provided the person with written
77 information explaining:

78 (i) the health risks associated with use of the device; and

79 (ii) the importance of using protective eyewear while using the device;

80 (b) the facility provides the person with protective eyewear and instructs the person in
81 the proper use of the eyewear;

82 (c) if the person is under 14 years of age, the person has a written order from a
83 physician, as defined in Section 58-67-102, to use a tanning device as a medical treatment;

84 (d) if the person is at least 14 years of age and under 18 years of age:

85 (i) the person has a written order from a physician, as defined in Section 58-67-102, to
86 use a tanning device as a medical treatment; or

87 (ii) at each time of use:

88 (A) the person is accompanied at the facility by the person's parent or guardian, except
89 that the parent or guardian is not required to remain at the facility for the duration of the use;

90 (B) the facility provides the person, and the parent or guardian, with the written
91 information required under Subsection (3)(a), even if the information has been provided before
92 within the past 12 months;

93 (C) the parent or guardian certifies in writing that the parent or guardian has read and
94 understands the information provided under Subsection (3)(d)(ii)(B); and

95 (D) the parent or guardian provides written consent authorizing the person to use the
96 tanning device.

97 (4) A tanning facility shall post in a conspicuous place in the facility a sign notifying
98 potential users of a tanning device:

99 (a) that there are health risks associated with use of the device; and

100 (b) that the facility may not allow a person under 18 years of age to use a tanning
101 device unless the person:

102 (i) has a written order from a physician; or

103 (ii) the person is 14 years of age or older and at each time of use is accompanied at the
104 facility by a parent or guardian who provides written consent authorizing the person to use the
105 device.

106 (5) (a) The department shall make rules in accordance with Title 63G, Chapter3, Utah
107 Administrative Rulemaking Act, specifying:

108 (i) minimum requirements a tanning facility shall satisfy to obtain a permit under
109 Subsection (2)(a);

110 (ii) the written information a tanning facility shall provide under Subsection (3)(a);

111 (iii) the instruction in the proper use of eyewear a tanning facility shall provide under
112 Subsection (3)(b);

113 (iv) procedures a tanning facility shall implement to ensure a person under 18 years of
114 age does not use a tanning device unless:

115 (A) the person has a written order from a physician; or

116 (B) if the person is 14 years of age or older, the requirements of Subsection (3)(d)(ii)
117 have been satisfied;

118 (v) the size, placement, and content of the sign a tanning facility must post under

119 Subsection (4).

120 (b) A local health department may create permit requirements in addition to those
121 required under Subsection (5)(a)(i).

122 (c) The sign content required under Subsection (5)(a)(v) may include specific health
123 risks associated with use of a tanning device.

124 (6) (a) A violation of this section:

125 [~~(a)~~] (i) is a class C misdemeanor; and

126 [~~(b)~~] (ii) may result in the revocation of a permit [~~to do business as a tanning facility~~]
127 obtained under Subsection (2)(a).

128 (b) A violation of Subsection (3)(c) or (d) shall result in revocation of a permit
129 obtained under Subsection (2)(a).

130 (7) This section supercedes any ordinance enacted by the governing body of a political
131 subdivision that imposes restrictions on access to a tanning device by a person [~~younger than~~
132 ~~age 18 that~~] under 18 years of age and is not essentially identical to the provisions of this
133 section.