

**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

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**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 beyond the minimum requirements specified by the Utah Department of Health;
- ▶ amends penalties;
- ▶ amends restriction on local tanning facility ordinances; and
- ▶ makes technical changes.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **26-15-13**, as enacted by Laws of Utah 2007, Chapter 25



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

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

36 **26-15-13. Regulation of tanning facilities.**

37 (1) For purposes of this section:

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

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

43 (A) a sunlamp; and

44 (B) a tanning booth or bed.

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

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

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

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

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

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

55 [~~(4) It is unlawful for any operator of a tanning facility to allow a person younger than~~  
56 ~~18 years old to use a tanning device unless the minor's parent or legal guardian:]~~

57 ~~[(a) appears in person at the tanning facility the first time that the minor uses a tanning~~  
58 ~~device, and at least once each 12 month period thereafter in which the minor uses the tanning~~  
59 ~~device; and]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

83 (c) if the person is under 18 years of age:

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

86 (ii) at each time of use:

87 (A) the person is accompanied at the facility by the person's parent or guardian, except

88 that the parent or guardian is not required to remain at the facility for the duration of the use;

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

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

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

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

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

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

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

102 (ii) at each time of use is accompanied at the facility by a parent or guardian who  
103 provides written consent authorizing the person to use the device.

104 (5) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah  
105 Administrative Rulemaking Act, specifying:

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

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

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

111 (iv) procedures a tanning facility shall implement to ensure a person under 18 years of  
112 age does not use a tanning device unless the person has a written order from a physician or the  
113 requirements of Subsection (3)(c)(ii) have been satisfied, including use of a statewide uniform  
114 form for a parent or guardian to certify and give consent under Subsection (3)(c)(ii)(C) and (D),  
115 that:

116 (A) clearly identifies by the department's seal or other means that the form is an official  
117 form of the department; and

118 (B) includes the written information and instructions required under Subsections (3)(a)

119 and (3)(b);

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

121 Subsection (4).

122 (b) A local health department may create permit requirements in addition to those

123 required under Subsection (5)(a)(i).

124 (c) The sign content required under Subsection (5)(a)(v) may include specific health

125 risks associated with use of a tanning device.

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

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

128 [~~(b)~~] (ii) may result in the revocation of a permit [~~to do business as a tanning facility]~~

129 obtained under Subsection (2)(a).

130 (b) A violation of Subsection (3)(c) shall result in revocation of a permit obtained

131 under Subsection (2)(a).

132 (c) If a person misrepresents to a tanning facility that the person is 18 years of age or

133 older, the person is guilty of a class C misdemeanor.

134 (7) [~~This~~] Except as provided in Subsection (5)(b), this section supercedes any

135 ordinance enacted by the governing body of a political subdivision [~~that imposes restrictions on~~

136 access to a tanning device by a person younger than age 18 that is not essentially identical to]

137 that regulates a tanning facility and is not at least as restrictive as the provisions of this section.