

SB0041S05 compared with SB0041S03

~~{deleted text}~~ shows text that was in SB0041S03 but was deleted in SB0041S05.

inserted text shows text that was not in SB0041S03 but was inserted into SB0041S05.

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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;

SB0041S05 compared with SB0041S03

~~{~~ → 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.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

26-15-13. Regulation of tanning facilities.

(1) For purposes of this section:

(a) "Minor" means a person under 18 years of age.

~~[(a)]~~ (b) "Phototherapy device" means equipment that emits ultraviolet radiation used by a health care professional in the treatment of disease.

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

(A) a sunlamp; and

(B) a tanning booth or bed.

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

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

~~{ }~~ (2) A tanning facility shall: ~~{ }~~

~~{ }~~ (a) annually obtain a permit to do business as a tanning facility from the local health

SB0041S05 compared with SB0041S03

department with jurisdiction over the location in which the facility is located; and

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

(3) The posted warning and written consent required by Subsections (2) and (5) shall be developed by the department through administrative rules

and shall include:

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

(b) that the facility may not allow a minor to use a tanning device unless the minor:

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

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

(4) It is unlawful for any operator of a tanning facility to allow a person younger than 18 years old minor to use a tanning device unless:

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

(b) (i) the minor's parent or legal guardian

appears in person at the tanning facility ~~the first time~~ each time that the minor uses a tanning device, and at least once each 12-month period thereafter in which the minor uses the tanning device; and

(b) (ii) the minor's parent or legal guardian is not required to remain at the facility for the duration of the use; and

(b) (ii) the minor's parent or legal guardian signs the consent form required in Subsection (5).

(5) The written consent required by Subsection (4) shall be signed and dated each time the minor uses a tanning device at the facility, and shall include at least:

(a) information concerning the health risks associated with the use of a tanning device; and

if the individual using the tanning device is a minor, a statement that:

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

(ii) the parent or legal guardian agrees that the minor will use protective eye wear;

SB0041S05 compared with SB0041S03

and].

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

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

~~— (b) Unless revoked, the permit is valid for one year:~~

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

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

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

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

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

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

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

~~— (ii) at each time of use:~~

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

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

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

~~— (D) the parent or guardian provides written consent authorizing the person to use the tanning device;~~

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

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

~~— (b) that the facility may not allow a person under 18 years of age to use a tanning~~

SB0041S05 compared with SB0041S03

~~device unless the person:~~

~~—— (i) has a written order from a physician; or~~

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

‡ ~~(5)(a)6~~ The department shall ~~{make}~~ adopt administrative rules in accordance with Title 63G, ~~{Chapter3}~~ Chapter 3, Utah Administrative Rulemaking Act, specifying:

~~(i)a~~ minimum requirements a tanning facility shall satisfy to obtain a permit under Subsection ~~(2){(a)}~~:

~~(ii)b~~ the written information ~~{a tanning facility shall provide under Subsection (3)(a)}~~:

~~—— (iii) the instruction in the proper use of eyewear a tanning facility shall provide under Subsection (3)(b):~~

~~—— (iv) concerning health risks a facility should include in the posted signs required by Subsection (3) and in the consent form required by Subsection (5):~~

~~(c) procedures a tanning facility shall implement to ensure a {person under 18 years of age does not use a tanning device unless the person has a written order from a physician or the requirements of Subsection (3)(c)(ii) have been satisfied}~~ minor and the minor's parent or legal guardian comply with Subsections (4) and (5), including use of a statewide uniform form:

~~(i) for a parent or legal guardian to certify and give consent under Subsection (3)5}{(c)(ii)(C)}; and { (D), that: }~~

~~(A)ii~~ that clearly identifies ~~{by}~~ the department's seal or other means to indicate that the form is an official form of the department; and

~~{ —— (B) includes the written information and instructions required under Subsections (3)(a) and (3)(b):~~

‡ ~~(v)d~~ the size, placement, and content of the sign a tanning facility must post under Subsection ~~(4)~~:

~~—— (b) A local health department may create permit requirements in addition to those required under Subsection (5)(a)(i):~~

~~—— (c) The sign content required under Subsection (5)(a)(v) may include specific health risks associated with use of a tanning device:~~

~~—— (6) 2).~~

SB0041S05 compared with SB0041S03

~~[(6)] (7)~~ (a) A violation of this section:

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

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

~~{~~ ~~—~~ ~~(b)~~ A violation of Subsection (3)(c) shall result in revocation of a permit obtained under Subsection (2)(a).

~~‡~~ ~~(c)~~ (b) If a person misrepresents to a tanning facility that the person is 18 years of age or older, the person is guilty of a class C misdemeanor.

~~[(7)] (8)~~ ~~{}~~ This ~~{}~~ Except as provided in Subsection (5)(b), this section supercedes any ordinance enacted by the governing body of a political subdivision ~~{}~~ that:

(a) imposes restrictions on access to a tanning device by a person younger than age 18 that ~~{}~~ is not essentially identical to ~~{}~~ that regulates a the provisions of this section[-]; or

(b) that require the posting of warning signs at the tanning facility ~~{and is}~~ that are not ~~{at least as restrictive as}~~ essentially identical to the provisions of this section. ~~{~~

~~‡~~